GENERAL LAWS

OF THE

STATE OF IDAHO

Volume 2

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FIFTY-THIRD IDAHO LEGISLATURE

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

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PETE T. CENARRUSA
Secretary of State
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CHAPTER 263
(H.B. No. 810)

AN ACT
RELATING TO EXEMPTIONS TO SALES AND USE TAXES; AMENDING SECTION 63-3622JJ, IDAHO CODE, TO EXEMPT FROM THE SALES AND USE TAX FUEL USED IN LOGGING TRUCKS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3622JJ, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

Approved March 15, 1996.

CHAPTER 264
(H.B. No. 847)

AN ACT

APPROPRIATING MONEYS TO THE LOTTERY COMMISSION FOR FISCAL YEAR 1997; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT TO CLARIFY THE SCOPE OF THE APPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Lottery Commission in the Department of Self-Governing Agencies the following amounts, to be expended for administrative costs according to the designated standard classifications from the listed fund for the period July 1, 1996, through June 30, 1997:

FOR:	
Personnel Costs	$1,905,800
Operating Expenditures	7,699,000
Capital Outlay	315,100
TOTAL	$9,919,900
FROM:	
State Lottery Fund	$9,919,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Lottery Commission is authorized no more than forty-seven (47) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. It is legislative intent that amounts necessary to pay prizes, retailer commissions, advertising and promotional costs shall be continuously appropriated to the Lottery Commission under the provisions of Section 67-7428, Idaho Code.

Approved March 15, 1996.

CHAPTER 265
(H.B. No. 848)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 1997; 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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$ 758,800	$ 537,300	$1,296,100
Federal Grants Fund	792,100	562,900	1,355,000
TOTAL	$1,550,900	$1,100,200	$2,651,100

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, 1996, through June 30, 1997, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 15, 1996.

CHAPTER 266
(H.B. No. 849)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE STATE EMERGENCY RESPONSE COMMISSION; APPROPRIATING MONEYS TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 1997; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY FOR SECTION 1 OF THIS ACT.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 317, Laws of 1995, there is hereby appropriated to the Governor's Office the following amount to be expended for the designated program according to the designated standard classification from the

listed fund for the period from July 1, 1995, through June 30, 1996:
STATE EMERGENCY RESPONSE COMMISSION:
FOR:
Operating Expenditures $45,000
FROM:
Federal Grant Fund $45,000

SECTION 2. 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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. GOVERNOR'S OFFICE ADMINISTRATION:					
FROM:					
General Fund	$ 945,000	$298,000			$1,243,000
II. GOVERNOR'S EXPENSE ALLOWANCE:					
TO BE EXPENDED PURSUANT TO SECTION 67-808d, IDAHO CODE:					
FROM:					
General Fund		$ 8,000			$ 8,000
III. SOCIAL SERVICES:					
FROM:					
Federal Grant Fund	$ 93,400	$ 5,100		$115,300	$ 213,800
IV. ENERGY:					
FROM:					
Federal Grant Fund				$ 24,400	$ 24,400
V. STATE EMERGENCY RESPONSE COMMISSION:					
FROM:					
Hazardous Waste Training, Emergency and Monitoring Fund	$ 134,700	$143,200	$48,000		$ 325,900
Water Pollution Control Fund				$ 100	100
Hazardous Materials/ Waste Enforcement Fund				100	100
Federal Grant Fund	27,500	160,500		74,600	262,600
TOTAL	$ 162,200	$303,700	$48,000	$ 74,800	$ 588,700
VI. ACTING GOVERNOR PAY:					
FROM:					
General Fund	$ 9,800				$ 9,800
GRAND TOTAL	$1,210,400	$614,800	$48,000	$214,500	$2,087,700

SECTION 3. 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, 1996, through June 30, 1997, 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. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after its passage and approval.

Approved March 15, 1996.

CHAPTER 267
(S.B. No. 1385)

AN ACT

RELATING TO CONSTRUCTION OF WELLS; AMENDING SECTION 42-235, IDAHO CODE, TO REVISE THE FEE FOR DRILLING PERMITS, TO PROVIDE THAT THE DRILLER IS RESPONSIBLE FOR OBTAINING THE DRILLING PERMIT, TO PROVIDE ENFORCEMENT PROCEDURES FOR VIOLATIONS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 42-238b, IDAHO CODE, TO INCLUDE VIOLATIONS OF SECTION 42-235, IDAHO CODE, IN THE ENFORCEMENT PROCEDURES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-235, Idaho Code, be, and the same is hereby amended to read as follows:

42-235. DRILLING PERMITS. Prior to ~~constructing~~ beginning construction of any well, or ~~drilling~~ changing the construction of any well, ~~an~~ the driller or well owner shall obtain a permit from the director of the department of water resources~~,~~ to protect the public health, safety and welfare and the environment, and to prevent the waste of water or mixture of ~~any~~ water from ~~a well~~ different aquifers. There shall be a ~~thirty~~seventy-five dollar ($375.00) charge for the permit if the well is to be used for domestic or monitoring purposes. If the well is to be used for other than domestic or monitoring purposes, the charge for the permit shall be two hundred dollars ($200). All moneys received pursuant to this section shall be credited to the water administration account. The director may provide a blanket drilling permit for site specific monitoring programs which will determine the quality, quantity, temperature, pressure or other attributes of aquifers. The application for a blanket permit shall ~~be submitted~~ include a design proposal prepared by a licensed engineer or licensed geologist ~~and~~ which shall describe the overall drilling program and all relevant technical features of the wells to the satisfaction of the director. Progress reports, completion and other data may

be required as provided by rule ~~and regulation~~. The fee for the blanket permit shall be ~~fifty~~ one hundred dollars ($5~~0.00~~10) plus an additional ~~twenty-five~~ fifty dollars ($~~2~~50.00) per well. A ~~person~~ driller or well owner violating any provision of this section shall be guilty of a misdemeanor and shall also be subject to the enforcement procedures of section 42-238b, Idaho Code.

SECTION 2. That Section 42-238b, Idaho Code, be, and the same is hereby amended to read as follows:

42-238b. ENFORCEMENT PROCEDURE. (1) When the director of the department of water resources determines that a driller or well owner has not acquired or complied with the permit required by section 42-235, Idaho Code, or a driller has not complied with the standards of subsections (2), (3), (4), (5) and (7) of section 42-238, Idaho Code, the director may commence an administrative enforcement action by issuing the driller or well owner a written notice of violation. The notice of violation shall identify and specify the alleged violation, shall specify each provision of section 42-235, Idaho Code, or subsections (2), (3), (4), (5) or (7) of section 42-238, Idaho Code, that have been violated and shall state the remedy or civil penalty the director seeks for redress of the violation.

(2) The notice of violation shall inform the person to whom it is directed of an opportunity to confer with the director or the director's designee in a compliance conference concerning the alleged violation. A written response may be required within fifteen (15) days of receipt of the notice of violation by the person to whom it is directed. If a recipient of a notice of violation contacts the department within fifteen (15) days of the receipt of the notice, the recipient shall be entitled to a compliance conference. The conference shall be held within twenty (20) days of the receipt of the notice unless a later date is agreed upon between the parties. If a compliance conference is not requested, the director may proceed with a civil enforcement action as provided in subsection (4) of this section.

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

accordance with subsection (4) of this section.

(4) The director may initiate a civil enforcement action through the attorney general as provided in subsection (6) of this section. Civil enforcement actions shall be commenced and prosecuted in the district court in and for the county in which the alleged violation occurred, and may be brought against any person who is alleged to have violated any provision of section 42-235 or 42-238, Idaho Code, or any rule ~~and regulation~~ promulgated pursuant thereto. Such action may be brought to compel compliance with any provision of section 42-235 or 42-238, Idaho Code, or any rule ~~and regulation~~ promulgated pursuant thereto. The director shall not be required to prosecute an administrative action before initiating a civil enforcement action.

(5) Any ~~person~~ driller or well owner determined in a civil enforcement action to have violated any provision of section 42-235 or 42-238, Idaho Code, or any rule ~~and regulation~~ promulgated pursuant thereto, shall be liable for a civil penalty not to exceed ten thousand dollars ($10,000) per violation or one hundred dollars ($100) per day of a continuing violation, whichever is greater. A method of recovery of the penalty shall be a civil enforcement action in and for the county where the violations occurred. All civil penalties collected under this section shall be paid into the water administration account. Parties to an administrative enforcement action may agree to a civil penalty as provided in this subsection. In addition to any civil penalties, any ~~person~~ driller or well owner who has been determined to have violated the provisions of section 42-235 or 42-238, Idaho Code, or the rules ~~and regulations~~ promulgated thereunder, shall be liable for any expense incurred by the state in enforcing the provisions of section 42-235 or 42-238, Idaho Code, or in enforcing or terminating any nuisance or source of environmental degradation caused by the violation. No action taken pursuant to this section shall relieve any ~~person~~ driller or well owner from any civil action and damages that may exist for injury or damage resulting from any violation of section 42-235 or 42-238, Idaho Code, or the rules ~~and regulations~~ promulgated pursuant thereto.

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

(7) Any ~~person~~ driller, well owner or well pump installer causing a well to be altered or modified so as to not meet the construction standards provided for in section 42-238, Idaho Code, shall be deemed to have violated the provisions of this chapter and shall be subject to the notice of violation procedure and civil penalties as provided in ~~subsection (5) of~~ this section.

Approved March 15, 1996.

CHAPTER 268
(S.B. No. 1393)

AN ACT

RELATING TO LAKES; AMENDING SECTION 67-4302, IDAHO CODE, TO PROVIDE THAT LANDS BELONGING TO THE STATE OF IDAHO BETWEEN THE ORDINARY

HIGH AND LOW WATER MARKS AT BIG PAYETTE LAKE AS WELL AS ALL OTHER LANDS OF THE STATE ADJACENT TO THE LAKE WHICH ARE NOT HELD IN TRUST FOR THE BENEFICIARIES OF THE ENDOWED INSTITUTIONS ARE DECLARED TO BE DEVOTED TO A PUBLIC USE IN CONNECTION WITH THE PRESERVATION OF THE LAKE; AND AMENDING SECTION 67-4305, IDAHO CODE, TO PROVIDE THAT LANDS BELONGING TO THE STATE OF IDAHO BETWEEN THE ORDINARY HIGH AND LOW WATER MARKS AT PRIEST, PEND D'OREILLE AND COEUR D'ALENE LAKES, AS WELL AS ALL OTHER LANDS OF THE STATE ADJACENT TO THOSE LAKES WHICH ARE NOT HELD IN TRUST FOR THE BENEFICIARIES OF THE ENDOWED INSTITUTIONS ARE DECLARED TO BE DEVOTED TO A PUBLIC USE IN CONNECTION WITH THE PRESERVATION OF THE LAKES.

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

SECTION 1. That Section 67-4302, Idaho Code, be, and the same is hereby amended to read as follows:

67-4302. BIG PAYETTE LAKE -- LANDS DEVOTED TO HEALTH AND RECREATIONAL USES. The lands belonging to the state of Idaho between the ordinary high and low water mark at said Big Payette Lake, as well as all other lands of the state adjacent to said lake~~, until the same are disposed of by the state board of land commissioners~~ which are not held in trust for the beneficiaries of the endowed institutions, are hereby declared to be devoted to a public use in connection with the preservation of said lake in its present condition as a health resort and recreation place for the inhabitants of the state and said public use is hereby declared to be a more necessary use than the use of said lands as a storage reservoir for irrigation or power purposes.

SECTION 2. That Section 67-4305, Idaho Code, be, and the same is hereby amended to read as follows:

67-4305. PRIEST, PEND D'OREILLE, AND COEUR D'ALENE LAKES -- LANDS DEVOTED TO HEALTH AND RECREATIONAL USE. The lands belonging to the state of Idaho between the ordinary high and low water mark at said lakes as well as all other lands of the state adjacent to said lake~~, until the same are disposed of by the state board of land commissioners~~ which are not held in trust for the beneficiaries of the endowed institutions, are hereby declared to be devoted to a public use in connection with the preservation of said lakes in their present condition as a health resort and recreation place for the inhabitants of the state and said public use is hereby declared to be a more necessary use than the use of said lands as a storage reservoir for irrigation or power purposes.

Approved March 15, 1996.

CHAPTER 269
(S.B. No. 1406)

AN ACT

RELATING TO IDAHO STATE UNIVERSITY; AMENDING SECTION 33-3002, IDAHO CODE, TO PROVIDE THE PURPOSES OF THE UNIVERSITY.

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

SECTION 1. That Section 33-3002, Idaho Code, be, and the same is hereby amended to read as follows:

33-3002. PURPOSES OF IDAHO STATE UNIVERSITY. ~~Subject--to-the authority-of-the-board-of-trustees-to-prescribe-programs--and--courses of--study,-the-Idaho-State-University-shall-offer-and-give-instruction to-male-and-female-students-in-four-(4)-year-college-courses--in--science,--arts--and--literature,-and-general-engineering-with-emphasis-on nuclear-science,-but-not-in-mechanical,-electrical,-chemical-or--civil engineering,--giving--such-courses-or-programs-as-are-usually-included in-liberal-arts-colleges-leading-to-the--granting--of--the--degree--of Bachelor,--and-such-graduate-courses-of-study,-or-programs,-leading-to the-granting-of-the-degree-of-Master,-or-other-degrees,--upon--completion--of--such--courses-or-programs-as-have-been-approved-by-the-state board-of-education.~~ Idaho State University shall be a comprehensive institution of higher education giving instruction in undergraduate, professional and graduate education, as approved by the board of trustees.

Courses of instruction in the college of pharmacy shall be such as shall meet the standard requirements as are now, or hereafter may be, recommended by the recognized accrediting agency for schools or colleges of pharmacy, and the usual degrees shall be granted for completion of courses in pharmacy.

The board of trustees may establish vocational and other courses or programs, as it may deem necessary, and such courses or programs may be given or conducted on or off campus, or in night schools, summer schools, or by extension courses.

Approved March 15, 1996.

CHAPTER 270
(S.B. No. 1432)

AN ACT

RELATING TO SPEED LIMITS; AMENDING SECTION 49-105, IDAHO CODE, TO REDEFINE "URBAN DISTRICT" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-201, IDAHO CODE, TO AUTHORIZE THE IDAHO TRANSPORTATION BOARD TO SET A MAXIMUM SPEED LIMIT OF SEVENTY-FIVE MILES PER HOUR ON THE INTERSTATE HIGHWAY SYSTEM AND SIXTY-FIVE MILES PER HOUR ON THE STATE HIGHWAY SYSTEM AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-207, IDAHO CODE, TO AUTHORIZE LOCAL

HIGHWAY JURISDICTIONS TO SET A MAXIMUM SPEED LIMIT OF SIXTY-FIVE MILES PER HOUR ON HIGHWAYS WITHIN THEIR JURISDICTIONS; AMENDING SECTION 49-654, IDAHO CODE, TO PROVIDE A MAXIMUM SPEED LIMIT OF SEVENTY-FIVE MILES PER HOUR ON THE INTERSTATE SYSTEM AND SIXTY-FIVE MILES PER HOUR IN OTHER LOCATIONS, TO DELETE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

49-105. DEFINITIONS -- D.

(1) "Dealer" means every person in the business of buying, selling or exchanging five (5) or more new or used vehicles, new or used motorcycles, snow machines or motor scooters, travel trailers, all-terrain vehicles or motor homes in any calendar year, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. No insurance company, bank, finance company, public utilities company, or other person coming into possession of any vehicle, as an incident to its regular business, who shall sell that vehicle under any contractual rights it may have, shall be considered a dealer. See also "salvage pool", section 49-120, Idaho Code.

(2) "Dealer's selling agreement." (See "Franchise", section 49-107, Idaho Code)

(3) "Department" means the Idaho transportation department acting directly or through its duly authorized officers and agents, except in chapters 6 and 9, title 49, Idaho Code, where the term means the Idaho department of law enforcement, except as otherwise specifically provided.

(4) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a vehicle dealership who, in the event of the owner's death, is entitled to inherit the ownership interest in the dealership under the same terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a dealership, has been appointed by a court as the legal representative of the dealer's property.

(5) "Director" means the director of the Idaho transportation department, except in chapters 6, 9 and 22, title 49, Idaho Code, where the term means the director of the Idaho department of law enforcement.

(6) "Disqualification" as defined in 49 CFR part 383, means withdrawal by the department of commercial vehicle driving privileges.

(7) "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to dealers or who maintains distributor representatives.

(8) "Distributor branch" means a branch office similarly main-

tained by a distributor for the same purposes a factory branch is maintained.

(9) "Distributor representative" means any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vehicles for the purpose of making or promoting the sale of vehicles, or for supervising or contacting dealers or prospective dealers.

(10) "District" means:

(a) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(b) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.

(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses. For purposes of establishing speed limits in accordance with the provisions of section 49-654, Idaho Code, no state highway or any portion thereof lying within the boundaries of an urban district is subject to the limitations which otherwise apply to nonstate highways within an urban district.

(11) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(12) "Drag race" means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one (1) or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of the vehicles within a certain distance or time limit.

(13) "Driver" means every person who drives or is in actual physical control of a vehicle.

(14) "Driver's license" means a license or permit issued by the department or by any other jurisdiction to an individual which authorizes the individual to operate a motor vehicle or commercial motor vehicle on the highways in accordance with the requirements of title 49, Idaho Code.

(15) "Driver's license -- classes of" are issued for the operation of a vehicle based on the size of the vehicle or the type of load and mean:

(a) Class A. This license shall be issued and valid for the operation of any combination of motor vehicles with a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the manufacturer's gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Persons holding a valid

class A license may also operate vehicles requiring a class B, C, or D license for operation, with any appropriate endorsements.

(b) Class B. This license shall be issued and valid for the operation of any single vehicle with a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight rating (GVWR). Persons holding a valid class B license may also operate vehicles requiring a class C license, with any appropriate endorsements, and vehicles requiring a class D license.

(c) Class C. This license shall be issued and valid for the operation of any single vehicle or combination of vehicles that does not meet the definition of class A or class B, as defined in this section, but that either is designed to transport sixteen (16) or more people, including the driver, or is placarded for hazardous materials. Persons holding a valid class C license may also operate vehicles requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in section 49-123, Idaho Code.

(e) "Seasonal driver's license" means a special restricted class B or C driver's license to operate certain commercial vehicles in farm-related industries under restrictions imposed by the department. As used in this definition, "farm-related industry" shall mean custom harvesters, farm retail outlets and suppliers, agrichemical businesses and livestock feeders. Seasonal driver's licenses are not valid for driving vehicles carrying any quantities of hazardous material requiring placarding, except for diesel fuel in quantities of one thousand (1,000) gallons or less, liquid fertilizers, i.e., plant nutrients, in vehicles or implements of husbandry with total capacities of three thousand (3,000) gallons or less, and solid fertilizers, i.e., solid plant nutrients, that are not mixed with any organic substance.

(16) "Driver's license endorsements" means special authorizations that are required to be displayed on a driver's license which permit the driver to operate certain types of commercial vehicles or commercial vehicles hauling certain types of cargo, or to operate a motorcycle.

(a) "Endorsement T -- Double/triple trailer" means this endorsement is required on a class A license to permit the licensee to operate a vehicle authorized to tow more than one (1) trailer.

(b) "Endorsement H -- Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle transporting a hazardous material that is required to be placarded under the hazardous materials transportation act and by rules and regulations of the U.S. department of transportation.

(c) "Endorsement P -- Passenger" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle designed to transport sixteen (16) or more people, including the driver.

(d) "Endorsement N -- Tank vehicle" means this endorsement is required on a class A, B or C license to permit the licensee to

operate a vehicle which is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle. This definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons.

(e) "Endorsement M -- Motorcycle" means this endorsement is required on a driver's license to permit the driver to operate a motorcycle.

(17) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(18) "Dromedary tractor" means every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer.

SECTION 2. That Section 49-201, Idaho Code, be, and the same is hereby amended to read as follows:

49-201. DUTIES OF BOARD. (1) With the exception of requirements for sections 49-217 and 49-218 and chapters 6 and 9, title 49, Idaho Code, which shall be the responsibility of the director of the department of law enforcement, and section 49-447, Idaho Code, which shall be the responsibility of the director of the department of parks and recreation, the board shall adopt and enforce administrative rules ~~and regulations~~ and may designate agencies or enter into agreements with private companies or public entities as may be necessary to carry out the provisions of this title. It shall also provide suitable forms for applications, registration cards, vehicle licenses, and all other forms requisite for the purpose of the provisions of this title, and shall prepay all transportation charges.

(2) The board may enter into agreements, compacts or arrangements with other jurisdictions on behalf of Idaho for the purpose of conforming procedures for proportional registration of commercial vehicles and other types of reciprocal agreements. Copies of agreements, compacts or arrangements shall be placed on file in the department and the board shall, as to all filings and adoption, conform with the provisions of chapter 52, title 67, Idaho Code. The board may approve, on a case by case basis, exemption from operating fees for private nonprofit entities who are bringing public interest programs into the state. These entities may not be in competition with companies who transport goods and services for hire.

(3) The board shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this title for use upon highways within the state. The uniform system shall correlate with, and so far as possible, conform to the system set forth in the most recent edition of the manual on uniform traffic control devices for streets and highways and other standards issued or endorsed by the federal highway administrator.

(4) Whenever the board shall determine upon the basis of an engineering and traffic investigation that any maximum speed is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the state highway or interstate highway system, the board may determine and declare a

reasonable and safe maximum limit, thereat, not exceeding a maximum limit of seventy-five (75) miles per hour on interstate highways and sixty-five (65) miles per hour on state highways, which shall be effective when appropriate signs giving notice are erected. The speed limit may be declared to be effective at all times or at the times as indicated upon the signs. Differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs.

(5) The board shall adopt and enforce rules as may be consistent with and necessary to determine the classification of and the basis on which fees shall be computed.

SECTION 3. That Section 49-207, Idaho Code, be, and the same is hereby amended to read as follows:

49-207. MUNICIPAL REGISTRATION PROHIBITED -- POWER TO ENACT REGULATORY ORDINANCES NOT ABOLISHED. (1) Authorities of counties and cities shall have no power to pass, enforce or maintain any ordinance requiring from any owner of a vehicle or any dealer to which this title shall be applicable, any tax, license or permit for the free use of the public highways of a county or city, or prohibiting or excluding any owner or dealer from the free use of such highways or excluding or prohibiting any vehicle registered in compliance with the provisions of this title from the free use of the highways. Powers given by general statutes to local authorities in cities to enact general ordinances applicable equally and generally to all vehicles and the use of highways to bring about the orderly passage of vehicles upon certain highways in such cities where the traffic is heavy and continuous, and powers given to cities to regulate vehicles offered to the public for hire, or processions, assemblages or parades on the highways or in public places shall remain in full force and effect, and all ordinances which may have been or which may be enacted in pursuance of those powers shall remain in full force and effect. These provisions of law shall not be construed to prevent cities from enacting and enforcing general ordinances prescribing additional requirements as to speed, manner of driving, or operating vehicles on any of the highways of such cities, and prescribing other requirements pertaining to signals to be given by drivers or operators of motor vehicles, the carrying of lights on motor vehicles, the turning of motor vehicles on highways, and requirements for motor vehicles in passing other vehicles and pedestrians.

(2) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering or traffic investigation, or the residential character of the neighborhood abutting the highway in an urban district that the speed limit permitted under this title is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway or because of the residential character of the neighborhood abutting the highway in an urban district, the local authority may determine and declare a reasonable and safe maximum limit which:

(a) Decreases the limit within an urban district; or

(b) Increases the limit within a nonresidential area of an urban

district but not to more than ~~fifty~~ sixty-five (~~5~~65) miles per hour; or

(c) Decreases the limit outside an urban district.

(3) Local authorities in their respective jurisdictions shall determine by an engineering or traffic investigation the proper maximum speed not exceeding a maximum limit of ~~fifty~~ sixty-five (~~5~~65) miles per hour for all arterial highways and shall declare a reasonable and safe maximum limit which may be greater or less than the limit permitted under this title for an urban district.

(4) Any altered limit established shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice are erected upon the highway. Any alteration of maximum limits on state highways or extensions in a municipality by local authorities shall not be effective until the alteration has been approved by the department.

SECTION 4. That Section 49-654, Idaho Code, be, and the same is hereby amended to read as follows:

49-654. BASIC RULE AND MAXIMUM SPEED LIMITS. (1) No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a ~~hill-crest~~ hillcrest, when traveling upon any narrow or winding highway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(2) Where no special hazard exists that requires lower speed for compliance with subsection (1) of this section the limits as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of the maximum limits:

(a) Thirty-five (35) miles per hour or a lesser maximum speed adopted pursuant to section 49-207(2)(a), Idaho Code, in any residential neighborhood of any urban district~~.~~;

(b) Thirty-five (35) miles per hour in any urban district;

(c) ~~Sixty~~Seventy-five (~~6~~75) miles per hour on interstate highways ~~designated as permissible by federal law~~;

(d) ~~Fifty~~Sixty-five (~~5~~65) miles per hour in other locations.

~~(3)--(a)-When--the-maximum-speed-on-a-given-highway-is-set-at-fifty-five-(55)-miles-per-hour,-a-violation-of-such-speed-limit-shall be-an-infraction,-and-subject-to-punishment-as-provided-in-section 18-113A,-Idaho-Code,-unless-the-conditions-listed-in-paragraph-(i) below-exist.~~

~~(i)--If-the-posted-speed-limit--on--the--stretch--of--highway where--the--violation--occurred-was-sixty-five-(65)-miles-per hour-or-more-prior-to-January-2,-1974,-and-the-speed--of--the vehicle--was--seventy--(70)--miles-per-hour-or-less,-then-the violation-is-an-infraction,-but-the-maximum-fine-that-may--be imposed-shall-be-five-dollars-($5.00),-no-jail-sentence-shall be--imposed,-no-violation-point-counts-shall-be-assessed,-and such-violation-shall-not-be-a-moving--traffic--violation--for~~

~~the--purpose-of-establishing-rates-of-motor-vehicle-insurance charged-by-a-casualty-insurer.~~

~~(b)--When-the-maximum-speed-on-a-given-highway-is--set--at--sixty-five-(65)-miles-per-hour,-a-violation-of-such-speed-limit-shall-be an--infraction,--and--subject-to-punishment-as-provided-in-section 18-113A,-Idaho-Code,-unless-the-conditions-listed-in-paragraph-(i) below-exist.~~

~~(i)--If-the-posted-speed-limit--on--the--stretch--of--highway where--the--violation--occurred-was-sixty-five-(65)-miles-per hour-or-more-prior-to-January-2,-1974,-and-the-speed--of--the vehicle--was--seventy--(70)--miles-per-hour-or-less,-then-the violation-is-an-infraction,-but-the-maximum-fine-that-may--be imposed-shall-be-five-dollars-($5.00),-no-jail-sentence-shall be--imposed,--no--violation--point-counts,-and-such-violation shall-not-be-a-moving-traffic-violation-for--the--purpose--of establishing--rates--of--motor-vehicle-insurance-charged-by-a casualty-insurer.~~

SECTION 5. This act shall be in full force and effect on and after May 1, 1996.

Approved March 15, 1996.

CHAPTER 271
(S.B. No. 1433)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-202, IDAHO CODE, TO PROVIDE FOR COLLECTION OF A TWO DOLLAR FEE FOR THE FILING OF RELEASE OF LIABILITY STATEMENTS; AMENDING CHAPTER 5, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-526, IDAHO CODE, TO REQUIRE THE FILING OF A RELEASE OF LIABILITY STATEMENT UPON SALE OR TRANSFER OF A MOTOR VEHICLE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-202, Idaho Code, be, and the same is hereby amended to read as follows:

49-202. DUTIES OF DEPARTMENT. (1) All registration and driver's license records in the office of the department shall be public records and open to inspection by the public during normal business hours. If the department has contracted for a service to be provided by another entity, an additional fee shall be charged by that contractor whether the service is rendered during normal business hours, other than normal business hours or on weekends.

(2) In addition to other fees required by law to be collected by the department, the department shall collect the following:

(a) For certifying a copy of any record pertaining to any vehicle license, any certificate of title, or any driver's license . $8.00

(b) For issuing every Idaho certificate of title $8.00
(c) For furnishing a duplicate copy of any Idaho certificate of title $8.00
(d) For issuance or transfer of every certificate of title on a new or used vehicle or other titled vehicle in an expedited manner (rush titles), in addition to any other fee required by this section $15.00
(e) For furnishing a replacement of any receipt of registration $3.00
(f) For answering inquiries as to registration or ownership of motor vehicles or driver's license records, per vehicle registration, accident report records, title or per driver's license record $4.00
Additional contractor fee, not to exceed $4.00
(g) For services in furnishing copies of files of vehicle or other registrations, vehicle titles, or driver's licenses per hour $10.00
(h) Placing "stop" cards in vehicle registration or title files, each $12.00
(i) For issuance of an assigned or replacement vehicle identification number (VIN) $10.00
(j) For a vehicle identification number (VIN) inspection whether conducted by a city or county peace officer or any other peace officer or designated agent of the state of Idaho, per inspection $3.00
(k) For all replacement registration stickers, each $1.00
(l) For issuing letters of temporary vehicle clearance to Idaho based motor carriers $10.00
(m) For all sample license plates, each $12.00
(n) For filing release of liability statements $2.00

(3) The fees required in this section shall not apply when the service is furnished to any federal, state, county or city peace officer when such service is required in the performance of their duties as peace officers.

(4) The department may enter into agreements with private companies or public entities to provide the services for which a fee is collected in subsection (2)(f) of this section. Such private contractor shall collect the fee prescribed and remit the fee to the department. The contractor shall also collect and retain the additional fee charged for his services.

(5) The department shall pay three dollars ($3.00) of the fee collected by a county assessor or other agent of the department as provided in subsection (2)(a) through (f) of this section, to the county assessor of the county or agent collecting such fee, which shall be deposited with the county treasurer and credited to the county current expense fund. The remainder of the fees collected as provided in that subsection shall be paid by the department to the state treasurer and placed in the state highway account. The fee collected under subsection (2)(j) of this section for a VIN inspection shall be placed in the city general fund if conducted by a city peace officer, in the county current expense fund if conducted by a county peace officer, shall be retained by the special agent authorized to perform the inspection, or paid to the state treasurer and placed to

the credit of the department of law enforcement if conducted by the Idaho state police division or in the state highway account if conducted by the department.

(6) The department as often as practicable may provide to law enforcement agencies the record of stolen and recovered motor vehicles and suspensions and revocations of driver licenses via the Idaho law enforcement telecommunications system (ILETS).

(7) The department shall provide the forms prescribed in chapter 5 of this title, shall receive and file in its office in Boise, Idaho, all instruments required in chapter 5 of this title to be filed with the department, shall prescribe a uniform method of numbering certificates of title, and maintain in the department indices for such certificates of title. All indices shall be by motor or identification number and alphabetical by name of the owner, and the department shall maintain two (2) separate files on each vehicle, one, a motor or identification number file, the other a file by the name of the owner.

(8) The department shall file each registration received under a distinctive registration number assigned to the vehicle and to the owner thereof, alphabetically under the name of the owner, and numerically and alphabetically under the name of the vehicle.

(9) The department shall not renew a driver's license when fees required by law have not been paid or where fees for past periods are due, owing and unpaid including nonsufficient fund checks.

(10) The department shall not grant the registration of a vehicle when:

(a) The applicant is not entitled to registration under the provisions of this title; or

(b) The applicant has neglected or refused to furnish the department with the information required in the appropriate form or reasonable additional information required by the department, or has failed to comply with the provisions of section 49-436, Idaho Code, in past registration periods; or

(c) The fees required by law have not been paid, or where fees for past registration periods are due, owing and unpaid including nonsufficient fund checks.

(11) The department has the authority to request any person, based upon evidence, to submit to medical, highway, or written examinations, to protect the safety of the public upon the highways.

(12) The department shall revoke the registration of any vehicle:

(a) Which the department shall determine is unsafe or unfit to be operated or is not equipped as required by law;

(b) Whenever the person to whom the registration card or registration plate has been issued shall make or permit to be made any unlawful use of the same or permit their use by a person not entitled thereto;

(c) For any violation of vehicle registration requirements by the owner or operator in the current or past registration periods;

(d) Whenever a motor carrier as defined in section 61-801, Idaho Code, has his permit revoked for any cause except at the request of the permit holder, as provided in section 61-808, Idaho Code, or whenever an interstate carrier has his registration revoked by reason of a revocation of his interstate commerce commission operating authority;

(e) For nonpayment by the owner or operator of the vehicle of use fees computed under sections 49-434 and 49-435, Idaho Code;

(f) For failure of the owner or operator to file the reports required or nonpayment of fees assessed against the owner by the department pursuant to audit under the provisions of section 49-436, Idaho Code;

(g) Identified by any city or county administering a program established by ordinance for the inspection and readjustment of motor vehicles (which program is part of an approved state implementation plan adopted by both the state and federal governments under 42 USC section 7410) as having failed to comply with an ordinance requiring motor vehicle emission inspection and readjustment; provided that no vehicle shall be identified to the department under this subsection (g) unless (i) the city or county certifies to the department that the owner of the motor vehicle has been given notice and had the opportunity for a hearing concerning compliance with the ordinance and has exhausted all remedies and appeals from any determination made at such hearing; and (ii) the city or county reimburses the department for all direct costs associated with the registration revocation procedure.

(13) The department shall not reregister or permit a vehicle to operate on a special trip permit until all fees, penalties and interest have been paid.

(14) The department shall institute educational programs, demonstrations, exhibits and displays;

(15) The department shall cancel a driver's license when fees required by law have not been paid or where fees for past periods are due, owing and unpaid including nonsufficient fund checks;

(16) The department shall examine persons and vehicles by written, oral and physical tests without compulsion except as provided by law;

(17) The department shall employ expert and special help as needed in the department;

(18) The department shall compile accident statistics and disseminate information relating to those statistics;

(19) The department shall cooperate with the United States in the elimination of road hazards, whether of a physical, visual or mental character.

(20) The department shall place and maintain traffic-control devices, conforming to the board's manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this title or to regulate, warn, or guide traffic. No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the department except by the latter's permission.

(21) The department may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall find that the structure cannot with safety to itself withstand vehicles traveling at a speed otherwise permissible under this title, shall determine and declare the maximum speed of vehicles which the structure can safely withstand, and shall cause or permit suitable signs stating the maximum speed to be erected and maintained before each end of the structure.

(22) Whenever the department shall determine on the basis of an

engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs.

(23) The department shall regulate or prohibit the use of any controlled-access highway by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(24) The department shall erect and maintain traffic-control devices on controlled-access highways on which any prohibitions are applicable.

(25) Wherever a highway crosses one or more railroads at grade, the department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when in the determination of public highway agencies the existence of stop signs at a given crossing would constitute a greater hazard than their absence based on a recognized engineering study.

Nothing in this subsection shall be construed as granting immunity to any railroad company as to liability, if any, for an accident which might occur at a crossing where stop signs are erected and in place, but liability, if any, shall be determined as provided by law. Liability on the part of governmental authorities on account of absence of any stop sign at a crossing shall be determined as provided by law.

(26) The department and local authorities are authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of those zones and when signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey those directions.

(27) The department and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this title or title 40, Idaho Code.

(28) The department and local highway authorities within their respective jurisdictions may place official traffic-control devices prohibiting, limiting or restricting the stopping, standing or parking of vehicles on any highway where such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles unduly interferes with the free movement of traffic thereon.

(29) On any informational material printed after July 1, 1995, by or at the order of the department and distributed to counties, school districts or individuals for the purpose of assisting a person to suc-

cessfully pass a driver's license test, the department shall include material about the state's open range law and responsibilities, liabilities and obligations of drivers driving in the open range.

SECTION 2. That Chapter 5, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-526, Idaho Code, and to read as follows:

49-526. RELEASE OF LIABILITY UPON SALE OF VEHICLE. (1) The department shall require that a separate release of liability statement be completed by the owner of a motor vehicle upon sale or transfer of the motor vehicle to another party. The statement shall be forwarded to the department by the former owner, together with the proper fee as provided in section 49-202, Idaho Code, within five (5) days of delivery of the motor vehicle to a dealer or purchaser. The statement shall include the motor vehicle identification number, vehicle description, name of seller, name of buyer, date of sale, odometer reading, and sales price. Provided that:

(a) A lienholder may complete the release of liability on behalf of the registered owner when the title is released by the lienholder directly to a dealer or new purchaser.

(b) Motor vehicle dealers licensed under chapter 16, title 49, Idaho Code, are not required to report dealer-to-dealer transfers to the department. However, dealers are required to maintain a record of the transfer for audit and tracking purposes.

(2) Any former owner who files a release of liability statement with the department pursuant to this section shall not be liable under section 49-2417, Idaho Code.

SECTION 3. This act shall be in full force and effect on and after January 1, 1997.

Approved March 15, 1996.

CHAPTER 272
(S.B. No. 1459)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1601, IDAHO CODE, TO PROVIDE FOR EACH PARENT, AND TO CLARIFY PARENTAL RIGHTS; AMENDING SECTION 16-1602, IDAHO CODE, TO PROVIDE AND CLARIFY DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 16-1603, IDAHO CODE, TO PROVIDE THE PLURAL FORM OF THE WORD PARENT; AMENDING SECTION 16-1605, IDAHO CODE, TO PROVIDE CONTENTS OF PETITIONS INVOKING THE JURISDICTION OF THE COURT; AMENDING SECTION 16-1606, IDAHO CODE, TO PROVIDE FOR SUMMONS AND JURISDICTION OF THE COURT, TO PROVIDE FOR NOTIFICATION AND TO PROVIDE FOR CONTENTS OF PROTECTIVE ORDERS; AMENDING SECTION 16-1607, IDAHO CODE, TO PROVIDE FOR EACH PARENT AND TO DIVIDE THE SECTION INTO SUBSECTIONS; AMENDING SECTION 16-1609, IDAHO CODE, TO PROVIDE FOR EACH

PARENT, TO PROVIDE TIMING FOR MAILING OF REPORTS AND TO PROVIDE FOR STATEMENTS OF THE COURT; AMENDING SECTION 16-1610, IDAHO CODE, TO PROVIDE FOR CONSIDERATIONS OF THE COURT WHEN MAKING CUSTODY DECISIONS, TO PROVIDE FOR CONTENTS OF A DECREE VESTING CUSTODY IN THE DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE FOR NOTIFICATION TO PARENTS WITH JOINT CUSTODY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 16-1611, IDAHO CODE, TO PROVIDE FOR EITHER PARENT AND TO PROVIDE FOR SERVICE OF NOTICE OF PETITION FOR REVIEW OF A CHILD'S CASE; AMENDING SECTION 16-1613, IDAHO CODE, TO PROVIDE FOR EACH PARENT; AMENDING SECTION 16-1614, IDAHO CODE, TO PROVIDE FOR EACH PARENT, TO PROVIDE FOR NOTICE AND TO PROVIDE FOR CONSIDERATION OF PLACEMENT IN THE TEMPORARY SOLE CUSTODY OF A PARENT; AMENDING SECTION 16-1616, IDAHO CODE, TO PROVIDE FOR EACH PARENT; AMENDING SECTION 16-1621, IDAHO CODE, TO PROVIDE FOR AVAILABILITY OF RECORDS OF PROCEEDINGS; AMENDING SECTION 16-1623, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF REPORTS OF EVALUATION, TO MAKE A TECHNICAL CORRECTION AND TO PROVIDE FOR EFFORTS OF THE DEPARTMENT REGARDING PLACEMENT; AMENDING SECTION 16-1625, IDAHO CODE, TO PROVIDE FOR STATEMENTS OF PARENTAL BEHAVIOR AND OF NECESSARY THIRD PERSONS IN VOLUNTARY AGREEMENTS AND TO PROVIDE WHO MUST SIGN VOLUNTARY AGREEMENTS; AMENDING SECTION 16-1631, IDAHO CODE, TO PROVIDE THAT A GUARDIAN AD LITEM MAY CONFER WITH A CHILD'S SIBLINGS AND PARENTS AND TO PROVIDE THAT A GUARDIAN AD LITEM HAS A DUTY TO MEET WITH PARENTS AND REPORT THEIR CONCERNS TO THE COURT; AMENDING SECTION 16-1632, IDAHO CODE, TO PROVIDE FOR NOTIFICATION TO A GUARDIAN'S ATTORNEY; AND AMENDING SECTION 18-2604, IDAHO CODE, TO PROHIBIT INTIMIDATION OF CHILD WITNESSES.

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

SECTION 1. That Section 16-1601, Idaho Code, be, and the same is hereby amended to read as follows:

16-1601. POLICY. The policy of the state of Idaho is hereby declared to be the establishment of a legal framework conducive to the judicial processing of child abuse, abandonment and neglect cases, and the protection of children whose life, health or welfare is endangered. Each child coming within the purview of this chapter shall receive, preferably in his own home, the care, guidance and control that will promote his welfare and the best interest of the state of Idaho, and if he is removed from the control of <u>one (1) or more of</u> his parents, guardian or other custodian, the state shall secure adequate care for him; provided, however, that the state of Idaho shall, to the fullest extent possible, seek to preserve, protect, enhance and reunite the family relationship. This chapter seeks to coordinate efforts by state and local public agencies, in cooperation with private agencies and organizations, citizens' groups, and concerned individuals, to:

(1) preserve the privacy and unity of the family whenever possible;

(2) take such actions as may be necessary and feasible to prevent the abuse, neglect or abandonment of children<u>;</u>

<u>(3) clarify for the purposes of this act the rights and responsi-</u>

bilities of parents with joint legal or joint physical custody of children at risk.

SECTION 2. That Section 16-1602, Idaho Code, be, and the same is hereby amended to read as follows:

16-1602. DEFINITIONS. For purposes of this chapter:

(a) "Abused" means any case in which a child has been the victim of:

(1) Conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence; or

(2) Sexual conduct, including rape, molestation, incest, prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child.

(b) "Abandoned" means the failure of the parent to maintain a normal parental relationship with his child, including but not limited to reasonable support or regular personal contact. Failure to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment.

(c) "Adjudicatory hearing" means a hearing to determine the truth of the allegations in the petition filed under this chapter.

(d) "Authorized agency" means the department, a local agency, a person, an organization, corporation, benevolent society or association licensed or approved by the department or the court to receive children for control, care, maintenance or placement.

(e) "Child" means an individual who is under the age of eighteen (18) years.

(f) "Child advocate coordinator" means a person or entity receiving moneys from the grant administrator for the purpose of carrying out any of the duties as set forth in section 16-1630, Idaho Code.

(g) "Circumstances of the child" includes, but is not limited to, the joint legal custody or joint physical custody of the child.

(h) "Commit" means to transfer legal and physical custody.

(~~h~~i) "Court" means district court or magistrate's division thereof, or if the context requires, a magistrate or judge thereof.

(~~i~~j) "Custodian" means a person, other than a parent or legal guardian, to whom legal or joint legal custody of the child has been given by court order or who is acting in loco parentis.

(~~j~~k) "Department" means the department of health and welfare and its authorized representatives.

(~~k~~l) "Disposition hearing" means a hearing to determine whether the best interests of the child require protective supervision or vesting legal custody of the child in an authorized agency.

(~~l~~m) "Family or household member" shall have the same meaning as in section 39-6303(2), Idaho Code.

(~~m~~n) "Grant administrator" means any such organization or agency as may be designated by the supreme court from time to time to administer funds from the guardian ad litem account in accordance with the provisions of this chapter.

(~~n~~o) "Guardian ad litem" means a person appointed by the court pursuant to a guardian ad litem volunteer program to act as special advocate for a child under this chapter.

(~~o~~p) "Guardian ad litem program" means the program to recruit, train and coordinate volunteer persons to serve as guardians ad litem for abused, neglected or abandoned children.

(~~p~~q) "Law enforcement agency" means a city police department, the prosecuting attorney of any county, state law enforcement officers, or the office of a sheriff of any county.

(~~q~~r) "Legal custody" means a relationship created by order of the court, which vests in a custodian the following duties and rights:

(1) To have physical custody and control of the child, and to determine where and with whom the child shall live.

(2) To supply the child with food, clothing, shelter and incidental necessities.

(3) To provide the child with care, education and discipline.

(4) To authorize ordinary medical, dental, psychiatric, psychological, or other remedial care and treatment for the child, including care and treatment in a facility with a program of services for children; and to authorize surgery if the surgery is deemed by two (2) physicians licensed to practice in this state to be necessary for the child.

(5) Where the parents share legal custody, the custodian may be vested with the custody previously held by either or both parents.

(~~r~~s) "Mental injury" means a substantial impairment in the intellectual or psychological ability of a child to function within a normal range of performance and/or behavior, for short or long terms.

(~~s~~t) "Neglected" means a child:

(1) Who is without proper parental care and control, or subsistence, education, medical or other care or control necessary for his well-being because of the conduct or omission of his parents, guardian or other custodian or their neglect or refusal to provide them; provided, however, no child whose parent or guardian chooses for such child treatment by prayers through spiritual means alone in lieu of medical treatment, shall be deemed for that reason alone to be neglected or lack parental care necessary for his health and well-being, but further provided this subsection shall not prevent the court from acting pursuant to section 16-1616, Idaho Code; or

(2) Whose parents, guardian or other custodian are unable to discharge their responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; or

(3) Who has been placed for care or adoption in violation of law.

(~~t~~u) "Protective order" means an order created by the court granting relief as delineated in section 39-6306, Idaho Code, and shall be for a period not to exceed three (3) months unless otherwise stated herein. Failure to comply with the order shall be a misdemeanor.

(~~u~~v) "Protective supervision" means a legal status created by court order in neglect and abuse cases whereby the child is permitted to remain in his home under supervision by the department.

(~~v~~w) "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parents after the transfer of legal custody, including but not necessarily limited to the right of visitation, consent to adoption, the right to determine religious affiliation, the right to family counseling when beneficial, and the responsibility for support.

(~~w~~x) "Shelter care" means places designated by the department for temporary care of children pending court disposition or placement.

SECTION 3. That Section 16-1603, Idaho Code, be, and the same is hereby amended to read as follows:

16-1603. JURISDICTION OF THE COURTS. Except as otherwise provided herein, the court shall have exclusive original jurisdiction in all proceedings under this chapter concerning any child living or found within the state:

(a) who is neglected, abused or abandoned by his parents, guardian or other legal custodian, or who is homeless; or

(b) whose parents or other legal custodian fails or is unable to provide a stable home environment. In considering the child's home environment, the court shall determine if the parents or other legal custodian is unable to provide such environment by reason of immaturity or emotional, mental, or physical disability.

SECTION 4. That Section 16-1605, Idaho Code, be, and the same is hereby amended to read as follows:

16-1605. PETITION. (a) A petition invoking the jurisdiction of the court under this chapter shall be filed in the manner provided in this section:

(1) A petition must be signed by the prosecutor or deputy attorney general before being filed with the court.

(2) Any person or governmental body of this state having evidence of abuse, abandonment, or neglect of a child may request the attorney general or prosecuting attorney to file a petition. The prosecuting attorney of the county where the child resides may file a petition on behalf of any child whose parent, guardian, or custodian has been accused in a criminal complaint of the crime of cruel treatment or neglect as defined in section 18-1501, Idaho Code.

(b) Petitions shall be entitled "In the Matter of ....., a child under the age of eighteen (18) years" and shall be verified and set forth with specificity:

(1) The facts which bring the child within the provisions of this chapter, with the actions of each parent described therein;

(2) The name, birthdate, sex, and residence address of the child;

(3) The name, birthdate, sex, and residence address of all other children living at or having custodial visitation at the home where the injury to the subject child occurred;

(4) The names and residence addresses of ~~his parents~~ both the

mother and father, guardian or other custodian. If neither of his parents, guardian or other custodian resides or can be found within the state, or if their residence addresses are unknown, the name of any known adult relative residing within the state.

(5) The names and residence addresses of each person having sole or joint legal custody of the children described in this section.

(6) Whether or not there exists a legal document including, but not limited to, a divorce decree, stipulation or parenting agreement controlling the custodial status of the children described in this section.

(~~4~~7) Whether the child is in shelter care, and, if so, the type and nature of the shelter care, the circumstances necessitating such care and the date and time he was placed in such care.

(~~5~~8) When any of the facts required by this section cannot be determined, the petition shall so state. The petition may be based on information and belief but in such case the petition shall state the basis of such information and belief.

(~~6~~9) The petition shall state that reasonable efforts have been made prior to the placement of the child in care to prevent the removal of the child from his home or, if such efforts were not provided, that placement was due to immediate danger to the child.

(10) The petition shall state with specificity whether a parent with joint legal custody or a noncustodial parent has been notified of placement.

(11) The petition shall state whether a court has adjudicated the custodial rights of the parents and shall set forth the custodial status of the child.

SECTION 5. That Section 16-1606, Idaho Code, be, and the same is hereby amended to read as follows:

16-1606. SUMMONS. (a) After a petition has been filed, the court may issue a summons requiring the person or persons who have custody of the child to bring the child before the court at the adjudicatory hearing held in accordance with section 16-1608, Idaho Code. If persons have joint custody of an injured, abandoned or abused child, those persons shall be summoned into court if they are found within the jurisdiction of the court. If the person or persons so summoned shall be other than the parent or guardian of the child, then ~~the~~ each parent or guardian shall also be notified in the manner hereinafter provided of the pendency of the case and the time and place set for the hearing. A summons may be issued requiring the appearance of any other person whose presence is required by the child, either of his parents or guardian or any other person whose presence, in the opinion of the court, is necessary.

(b) A copy of the petition shall be attached to each summons.

(c) The summons shall notify each of the parents, guardian or legal custodian of their right to retain and be represented by counsel. Each parent or legal guardian of each child named in the petition shall be notified by the court of the case and of the time and place set for the hearing.

(d) If it appears that the child should be removed from his present condition or surroundings in order to protect his health or wel-

fare, the court may so order by endorsement upon the summons. The endorsement shall require a peace officer or other suitable person to take the child at once to a place of shelter care designated by the court.

(e) If it appears that the child is safe in his present condition or surroundings and it is not in his best interest to remove him at this time, the court may issue a protective order based on an affidavit pending the adjudicatory hearing. If the child is in joint custody, the protective order shall state with specificity the rights and responsibilities of each parent. Each parent shall be provided with a copy of the protective order.

SECTION 6. That Section 16-1607, Idaho Code, be, and the same is hereby amended to read as follows:

16-1607. SERVICE OF SUMMONS -- TRAVEL EXPENSES -- NECESSARY WITNESSES. (a) Service of summons shall be made personally by delivery of an attested copy thereof to the person summoned; provided that if the court is satisfied that it is impracticable to serve personally such summons or the notice provided for in the preceding section, he may order service by registered mail addressed to the last known address, or by publication thereof, or both. It shall be sufficient to confer jurisdiction if service is effected at least forty-eight (48) hours before the time fixed in the summons for the hearing.

(b) When publication is used the summons shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the county; such newspaper to be designated by the court in the order for publication of the summons, and such publication shall have the same force and effect as though such person had been personally served with said summons.

(c) Service of summons, process or notice required by this chapter shall be made by the sheriff or other person appointed by the court, and a return must be made on the summons showing that service has been made.

(d) The court may authorize payment of any necessary travel expenses incurred by any person summoned or otherwise required to appear at the hearing of any case coming within the purview of this chapter, and such expenses when approved by the court shall be a charge upon the county, except that not more than five (5) witnesses on behalf of any parent or guardian may be required to attend such hearing at the expense of the county.

(e) The court may summon the appearance of any person whose presence is deemed necessary as a witness.

(f) The child, each of his parents, guardian or custodian shall be notified as soon as practicable after the filing of a petition and prior to the start of a hearing of their right to be represented by counsel.

(bg) If any person summoned as herein provided shall, without reasonable cause, fail to appear, the court may proceed in such person's absence or such person may be proceeded against for contempt of court.

(h) Where the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear

to the court that the service will be ineffectual, or that the welfare of the child requires that he be brought forthwith into the custody of the court, a warrant or capias may be issued for the parent, guardian or the child.

SECTION 7. That Section 16-1609, Idaho Code, be, and the same is hereby amended to read as follows:

16-1609. INVESTIGATION. (a) Where the court has ordered an adjudicatory hearing after the shelter care hearing or when a petition is otherwise filed, the court may order the department to investigate the circumstances of the child and his family and report to the court.

(b) The report shall be delivered to the court with copies to each of the parents or other legal custodian at least five (5) days before the date set for the adjudicatory hearing. If delivered by mail the report must be mailed at least eight (8) days prior to the date of the hearing. The report shall contain a social evaluation of the child and the parents or other legal custodian and such other information as the court shall require.

(c) The report shall not be admitted into evidence at the adjudicatory hearing and shall be used by the court only for disposition if the child is found to be within the purview of this chapter.

(d) If the court declines to order the department to investigate pursuant to subsection (a) of this section, the court shall state the reasons for so declining in the record.

SECTION 8. That Section 16-1610, Idaho Code, be, and the same is hereby amended to read as follows:

16-1610. DECREE -- DISPOSITION HEARING. (a) If a preponderance of the evidence of the adjudicatory hearing shows that the child comes within the purview of this chapter, the court shall so decree and in its decree shall make a finding of the facts and conclusions of law upon which it exercises jurisdiction over the child.

(b) Upon entry of its decree, the court may consider any information relevant to the disposition of the child, but in any event shall ~~either~~:

(1) Place the child under protective supervision in his own home for an indeterminate period not to exceed one (1) year from the date entered but the court may extend the period of time upon a showing by the authorized agency that continued supervision is necessary for the best interests of the child~~.~~; or

(2) Vest legal custody in the department or other authorized agency subject to residual parental rights and subject to full judicial review by the court of all matters relating to the custody of the child by the department or other authorized agency. The court shall make written findings as to whether the department made reasonable efforts to prevent the placement of the child in foster care, including findings, when appropriate, that:

(i) reasonable efforts were made but were not successful in eliminating the need for foster care placement of the child;~~,~~ ~~or~~

(ii) reasonable efforts were not made because of immediate

danger to the child; or
(iii) reasonable efforts to temporarily place the child with related persons were made but were not successful.

(c) A decree vesting legal custody in the department shall be binding upon the department, and shall state the department shall prepare a written case plan within thirty (30) days of placement designed to make it possible for the child to return to his home; shall state with specificity the role of the department toward each parent; and shall be for an indeterminate period not to exceed one (1) year from the date entered, except that the department may file a petition with the court requesting renewal of the order and the court, after notice to the parties and hearing and finding, may renew the order if it finds such renewal necessary to safeguard the best interests of the child. Renewals may be made during minority, but no order shall have any force or effect beyond minority. The department may petition the court at any time to vacate any order placing a child in its custody or under its protective supervision, but must provide notice of hearing to each parent having joint custody. Upon such renewal, the court shall expressly include in its order determination of the future status of the child, specifically stating whether the child should return home, continue in foster care for a specified time, be placed for adoption or, due to special needs, be in foster care permanently or long term.

(d) A decree vesting legal custody in an authorized agency other than the department shall be, for an indeterminate period of time not to exceed one (1) year from the date entered, but the court may extend the period of time during the child's minority upon a showing by the authorized agency that continued custody or supervision is necessary for the best interests of the child, and on such other terms as the court shall state in its decree to be in the best interests of the child and which the court finds to be acceptable to such authorized agency.

(e) In order to preserve the unity of the family system and to insure the best interests of the child whether issuing an order of protective supervision or an order of legal custody, the court may consider extending or initiating a protective order as part of the decree. The protective order shall be determined as in the best interests of the child and upon a showing of continuing danger to the child. The conditions and terms of the protective order shall be clearly stated in the decree.

(f) If the court does not find that the child comes within the purview of this chapter pursuant to subsection (a) of this section it shall dismiss the petition.

SECTION 9. That Section 16-1611, Idaho Code, be, and the same is hereby amended to read as follows:

16-1611. MODIFICATION OR REVOCATION. (a) A petition for revocation or modification of an order issued under section 16-1610, Idaho Code, or a petition for review of the child's case may be filed by either of the child's parents or guardian ad litem; provided that no petition may be filed under this section within three (3) months of a prior hearing on care and placement of the child. All persons required

to be summoned or notified of the original petition pursuant to section 16-1606, Idaho Code, shall be served with notice of a petition for review of a child's case.

(b) If the petition filed under subsection (a) of this section alleges that the child's best interests are no longer served by carrying out the order issued under section 16-1610, Idaho Code, or the department or other authorized agency has failed to provide adequate care for the child, the court shall hold a hearing on the petition.

(c) At a hearing to consider the petition filed under subsection (a) of this section the court shall proceed according to the provisions of subsection (b) of section 16-1608, Idaho Code. The court may dismiss the petition or it may revoke or modify the order as required by the best interests of the child.

(d) The department or authorized agency may petition the court at any time to vacate any order placing a child in its custody or under its protective supervision.

SECTION 10. That Section 16-1613, Idaho Code, be, and the same is hereby amended to read as follows:

16-1613. NOTICE -- PLACEMENT -- IMMUNITY. (a) A peace officer or other person appointed by the court who takes a child into custody under section 16-1612, Idaho Code, shall immediately:

(1) take the child to a place of shelter, and

(2) notify the court of the action taken and the place to which the child was taken, and,

(3) notify each of the parents, guardian or other legal custodian that the child has been taken into custody, the type and nature of shelter care, and that the child may be held for a maximum of forty-eight (48) hours, excluding Saturdays, Sundays and holidays, within which time there must be a shelter care hearing.

(b) A peace officer or other person appointed by the court who takes a child into custody under section 16-1612, Idaho Code, shall not be held liable either criminally or civilly unless the action of taking the child was exercised in bad faith and/or the requirements of subsection (a) of this section are not complied with.

SECTION 11. That Section 16-1614, Idaho Code, be, and the same is hereby amended to read as follows:

16-1614. SHELTER CARE HEARING. (a) Notwithstanding any other provision of this chapter, when a child is taken into custody pursuant to section 16-1612, Idaho Code, a hearing to determine whether the child should be released shall be held according to the provisions of this section.

(b) Each of t~~The~~ parents or custodian from whom the child was removed shall be given notice of the shelter care hearing. Such notice shall include the time, place, and purpose of the hearing; and, that such person is entitled to be represented by legal counsel. Notice as required by this subsection shall be given at least twenty-four (24) hours before the shelter care hearing.

(c) Notice of the shelter care hearing shall be given to the parents or custodian from whom the child was removed by personal service

and the return of service shall be filed with the court and to any person having joint legal or physical custody of the subject child. Provided, however, that such service need not be made where the undelivered notice is returned to the court along with an affidavit stating that such parents or custodian could not be located or were out of the state.

(d) The shelter care hearing may be continued for a reasonable time upon request by the parent, custodian or counsel for the child.

(e) If, upon the completion of the shelter care hearing, it is shown that:

(1) a petition has been filed; and

(2) there is reasonable cause to believe the child comes within the purview of this chapter and that reasonable efforts to prevent the placement of the child in shelter care could not be provided because of the immediate danger to the child or were provided but were not successful in eliminating the need for foster care placement of the child; and

(3) the child could not be placed in the temporary sole custody of a parent having joint legal or physical custody; and

(4) it is in the best interests of the child to remain in temporary shelter care pending the conclusion of the adjudicatory hearing; or

(~~4~~5) there is reasonable cause to believe that the child comes within the purview of this chapter, but a reasonable effort to prevent placement of the child outside the home could be affected by a protective order safeguarding the child's welfare and maintaining the child in his present surroundings; the court shall issue, within twenty-four (24) hours of such hearing, an order of temporary custody and/or a protective order. Any evidence may be considered by the court which is of the type which reasonable people may rely upon.

(f) Upon ordering temporary custody pursuant to subsection (e) of this section, the court shall also order an adjudicatory hearing to be held as soon as possible, but in no event later than thirty (30) days from the date the petition was filed.

(g) If the court does not find that the child should remain in shelter care under subsection (e) of this section, the child shall be released and the court may dismiss the petition.

SECTION 12. That Section 16-1616, Idaho Code, be, and the same is hereby amended to read as follows:

16-1616. AUTHORIZATION OF EMERGENCY MEDICAL TREATMENT. (a) At any time whether or not a child is under the authority of the court, the court may authorize medical or surgical care for a child when:

(1) A parent, legal guardian or custodian is not immediately available and cannot be found after reasonable effort in the circumstances of the case; or

(2) A physician informs the court orally or in writing that in his professional opinion, the life of the child would be greatly endangered without certain treatment and the parent, guardian or other custodian refuses or fails to consent.

(b) If time allows in a situation under subsection (a)(2) of this

section, the court shall cause every effort to be made to grant each of the parents or legal guardian or custodian an immediate informal hearing, but this hearing shall not be allowed to further jeopardize the child's life.

(c) In making its order under subsection (a) of this section, the court shall take into consideration any treatment being given the child by prayer through spiritual means alone, if the child or his parent, guardian or legal custodian are adherents of a bona fide religious denomination that relies exclusively on this form of treatment in lieu of medical treatment.

(d) After entering any authorization under subsection (a) of this section, the court shall reduce the circumstances, finding and authorization to writing and enter it in the records of the court and shall cause a copy of the authorization to be given to the physician or hospital, or both, that was involved.

(e) Oral authorization by the court is sufficient for care or treatment to be given by and shall be accepted by any physician or hospital. No physician or hospital nor any nurse, technician or other person under the direction of such physician or hospital shall be subject to criminal or civil liability for performance of care or treatment in reliance on the court's authorization, and any function performed thereunder shall be regarded as if it were performed with the child's and the parent's authorization.

SECTION 13. That Section 16-1621, Idaho Code, be, and the same is hereby amended to read as follows:

16-1621. COURT RECORDS. The court shall keep a record of all court proceedings under this chapter. The records shall be available only to parties to the proceeding, persons having full or partial custody of the subject child and authorized agencies providing protective supervision or having legal custody of the child. Any other person may have access to the records only upon permission by the court and then only if it is shown that such access is in the best interests of the child; or for the purpose of legitimate research. If the records are released for research purposes, the person receiving them must agree not to disclose any information which could lead to the identification of the child.

SECTION 14. That Section 16-1623, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) The department shall administer treatment programs for the protection and care of neglected, abused and abandoned children, and in so doing may place in foster care, shelter care, group homes or other diagnostic, treatment, or care centers or facilities, children

of whom it has been given custody. The department is to be governed by the standards found in title 39, chapter 12, Idaho Code.

(b) On December 1, the department shall make an annual statistical report to the governor covering the preceding fiscal year showing the number and status of persons in its custody and including such other data as will provide sufficient facts for sound planning in the conservation of children and youth. All officials and employees of the state and of every county and city shall furnish the department upon request, such information within their knowledge and control as the department deems necessary. Local agencies shall report in such uniform format as may be required by the department.

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

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

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

(f) The department shall keep written records of investigations, evaluations, prognosis and all orders concerning disposition or treatment of every person over whom it has legal custody. Department records shall be subject to disclosure according to chapter 3, title 9, Idaho Code, unless otherwise ordered by the court, the person consents to the disclosure, or disclosure is necessary for the delivery of services to the person.

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

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

from which the court ordered the child removed without first obtaining the approval of the court.

(i) The department shall give to the court any information concerning the child that the court may at any time require, but in any event shall report the progress of the child under its custody at intervals of not to exceed six (6) months.

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

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

SECTION 15. That Section 16-1625, Idaho Code, be, and the same is hereby amended to read as follows:

16-1625. AUTHORIZATION FOR DEPARTMENT TO ACT. (a) Upon receiving information that a child may be abused, neglected or abandoned, the department shall cause such investigation to be made in accordance with this chapter as is appropriate. In making the investigation the department shall use its own resources, and may enlist the cooperation of peace officers for phases of the investigation for which they are better equipped. Upon satisfying itself as to the course of action which should be pursued to best accord with the purpose of this chapter, the department shall:

(1) resolve the matter in such informal fashion as is appropriate under the circumstances; or

(2) seek to enter a voluntary agreement with all concerned persons to resolve the problem in such a manner that the child will remain in his own home; or

(3) refer the matter to the prosecutor or attorney general with recommendation that appropriate action be taken under this chapter; or

(4) refer the matter to the prosecutor or attorney general with recommendation that appropriate action be taken under other laws.

(b) In the event that the department concludes that a voluntary agreement pursuant to subsection (a)(2) of this section should be used, the agreement shall be in writing, shall state the behavioral basis of each parent and necessary third person, shall contain such other terms as the department and each parent having joint custody shall deem appropriate under the circumstances, shall utilize such resources as are available to the department from any source and are considered appropriate to the situation, shall specify the services or treatment to be undertaken, shall be signed by all persons, including:

(1) the child if appropriate~~,~~;

(2) every parent having joint custody of the subject child;

(3) any other full or part-time resident of the home;

(4) all other persons the department considers necessary to the agreement's success~~,~~;

and shall specify the responsibilities of each party to the agreement,

which responsibilities shall be thoroughly explained to each person orally. The agreement shall not run for more than one (1) year. Copies shall be given to all signatories.

SECTION 16. That Section 16-1631, Idaho Code, be, and the same is hereby amended to read as follows:

16-1631. GUARDIAN AD LITEM -- DUTIES. Subject to the direction of the court, the guardian ad litem shall have the following duties which shall continue until resignation of the guardian ad litem or until the court removes the guardian ad litem or no longer has jurisdiction, whichever first occurs:

(a) To conduct an independent factual investigation of the circumstances of the child including, without limitation, the circumstances described in the petition.

(b) To file with the court a written report stating the results of the investigation, the guardian ad litem's recommendations and such other information as the court may require. The guardian ad litem's written report shall be delivered to the court, with copies to all parties to the case at least five (5) days before the date set for the adjudicatory hearing. The report shall not be admitted into evidence at the adjudicatory hearing, and shall be used by the court only for disposition if the child is found to be within the purview of the act.

(c) To act as an advocate for the child for whom appointed at each stage of proceedings under this chapter and is charged with the general representation of the child. To that end, the guardian ad litem shall participate fully in the proceedings and to the degree necessary to adequately represent the child, and shall be entitled to confer with the child, and the child's siblings and parents.

(d) To facilitate and negotiate to insure that the court, the department, if applicable, and the child's attorney, if any, fulfill their obligations to the child in a timely fashion.

(e) To monitor the circumstances of a child, if the child is found to be within the purview of the act, to assure compliance with law and to assure that the terms of the court's orders are being fulfilled and remain in the best interest of the child.

(f) To meet with any parent having joint legal or physical custody of the child, record the concerns of the parent, and report them to the court or file an affidavit stating why no meeting occurred.

(g) To maintain all information regarding the case confidential and to not disclose the same except to the court or to other parties to the case.

(~~g~~h) Such other and further duties as may be expressly imposed by the court order.

SECTION 17. That Section 16-1632, Idaho Code, be, and the same is hereby amended to read as follows:

16-1632. GUARDIAN AD LITEM -- RIGHTS AND POWERS. The guardian ad litem will have the following rights and powers, which shall continue until resignation of the guardian ad litem or until the court removes the guardian ad litem or no longer has jurisdiction, whichever first occurs:

(a) The guardian ad litem, if represented by counsel, may file pleadings, motions, memoranda and briefs on behalf of the child, and shall have all of the rights of a party whether conferred by statute, rule of court or otherwise.

(b) All parties to any proceeding under this chapter shall promptly notify the guardian ad litem and the guardian's attorney of all hearings, staffings, investigations, depositions and significant changes of circumstances of the child.

(c) Except to the extent prohibited or regulated by federal law, upon presentation of a copy of the order appointing guardian ad litem, any person or agency, including, without limitation, any hospital, school, organization, department of health and welfare, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the guardian ad litem to inspect and copy pertinent records necessary for the proceeding for which the guardian is appointed relating to the child and parent without consent of the child or parents.

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

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

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

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

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

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

Approved March 15, 1996.

CHAPTER 273
(S.B. No. 1551)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1997; SETTING ASIDE RESTRICTIONS FOR A PARTICULAR USE OF THE LAND IMPROVEMENT FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED 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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
Land Improvement Fund	159,100	205,400				364,500
Land and Building Rental Fund	1,000	30,300				31,300
TOTAL	$ 1,934,700	$ 609,500	$ 82,200			$ 2,626,400
D. FOREST AND RANGE FIRE PROTECTION:						
FROM:						
General Fund					$2,411,400	$ 2,411,400
Department of Lands Fund					3,162,400	3,162,400
Fire Suppression Fund					109,600	109,600
Federal Grant Fund					285,300	285,300
TOTAL					$5,968,700	$ 5,968,700
E. SOIL AND WATER CONSERVATION:						
FROM:						
General Fund	$ 509,900	$ 68,000	$ 3,800	$ 252,000		$ 833,700
Department of Lands Fund	399,900	75,800				475,700
Water Pollution Control Fund	150,000	1,500		266,600		418,100
Resource Conservation Fund	28,900	92,000		291,400		412,300
Federal Grant Fund	50,400	114,500				164,900
TOTAL	$ 1,139,100	$ 351,800	$ 3,800	$ 810,000		$ 2,304,700
F. SCALING PRACTICES:						
FROM:						
Department of Lands Fund	$ 250,600	$ 34,900	$ 41,500			$ 327,000
GRAND TOTAL	$11,427,600	$5,732,900	$505,300	$1,088,500	$5,968,700	$24,723,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
A. SUPPORT SERVICES:						
FROM:						
General Fund	$ 1,055,500	$ 624,000	$ 42,200			$ 1,721,700
Department of Lands Fund	244,300	132,600				376,900
Land Improvement Fund	60,400	3,900				64,300
Federal Grant Fund	6,400	115,900				122,300
TOTAL	$ 1,366,600	$ 876,400	$ 42,200			$ 2,285,200
B. FOREST RESOURCES MANAGEMENT:						
FROM:						
General Fund	$ 2,771,700	$ 360,700	$103,200			$ 3,235,600
Department of Lands Fund	1,468,400	892,100	81,800			2,442,300
Water Pollution Control Fund	132,300	14,000				146,300
Land Improvement Fund	1,919,600	2,363,600	150,600			4,433,800
Community Forestry Fund				$ 76,500		76,500
Federal Grant Fund	444,600	229,900		202,000		876,500
TOTAL	$ 6,736,600	$3,860,300	$335,600	$ 278,500		$11,211,000
C. LAND, RANGE AND MINERAL RESOURCE MANAGEMENT:						
FROM:						
General Fund	$ 1,774,600	$ 245,400	$ 82,200			$ 2,102,200
Department of Lands Fund		128,400				128,400

SECTION 2. Notwithstanding Section 58-140, Idaho Code, up to $60,000 of the amount appropriated in Section 1 of this act from the Land Improvement Fund for the Forest Resources Management Program is to be used for a feasibility study of a Coeur d'Alene office building.

SECTION 3. There is hereby reappropriated to the Department of Lands the unexpended and unencumbered balance of any funds previously appropriated for the Triumph Mine Remediation Project to be used for the same purpose for the period July 1, 1996, through June 30, 1997.

The reappropriation is limited to $500,000 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 4. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred sixty-one

and eighty-six one hundredths (261.86) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, 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 15, 1996.

CHAPTER 274
(S.B. No. 1557)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 1997; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Insurance the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. INSURANCE REGULATION:				
FROM:				
Self-Governing Operating Fund	$2,424,400	$1,504,800	$88,600	$4,017,800
Federal Grant Fund	83,100	58,600		141,700
Miscellaneous Revenue Fund	50,000			50,000
TOTAL	$2,557,500	$1,563,400	$88,600	$4,209,500
B. STATE FIRE MARSHAL:				
FROM:				
Self-Governing State Fire Marshal Fund	$ 430,500	$ 238,700	$ 7,700	$ 676,900
GRAND TOTAL	$2,988,000	$1,802,100	$96,300	$4,886,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Insurance is authorized no more than sixty-five and one-half (65.5) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, 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 15, 1996.

CHAPTER 275
(S.B. No. 1558)

AN ACT
APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 1997.

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

SECTION 1. There is hereby appropriated to the Legislative Council the following amounts, to be expended for the designated programs from the listed funds for the period July 1, 1996, through June 30, 1997:

A. LEGISLATIVE SERVICES OFFICE:	
FROM:	
General Fund	$2,927,200
Miscellaneous Revenue Fund	42,300
Professional Services Fund	955,700
TOTAL	$3,925,200
B. OFFICE OF PERFORMANCE EVALUATIONS:	
FROM:	
General Fund	$ 420,900
GRAND TOTAL	$4,346,100

Approved March 15, 1996.

CHAPTER 276
(S.B. No. 1559)

AN ACT
APPROPRIATING MONEYS FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 1997; 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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$4,933,400	$ 826,100	$73,000	$5,832,500
Idaho School for the Deaf and the Blind Income Fund		84,300		84,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Federal Grants Fund	70,000	95,200	5,600	170,800
Miscellaneous Revenue Fund	4,000	30,200	5,600	39,800
TOTAL	$5,007,400	$1,035,800	$84,200	$6,127,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho School for the Deaf and the Blind is authorized no more than one hundred nineteen and fifty-two one-hundredths (119.52) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 15, 1996.

CHAPTER 277
(S.B. No. 1560)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 1996; APPROPRIATING MONEYS FOR THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 1997; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY FOR SECTION 1 OF THIS ACT.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 147, Laws of 1995, there is hereby appropriated to the Office of the Governor for the Division of Financial Management the following amounts, to be expended for the named programs according to the designated standard classifications from the listed funds for the period from July 1, 1995, through June 30, 1996:

I. SILVER VALLEY TRUST:

FOR:

Operating Expenditures $500,000

FROM:

Silver Valley Trust Fund $500,000

II. BUNKER HILL TRUST:

FOR:

Trustee and Benefit Payments $40,000

FROM:

Bunker Hill Trust Fund $40,000

SECTION 2. There is hereby appropriated to the Office of the Governor for the Division of Financial Management the following amounts, to be expended for the named programs according to the designated

standard classifications from the listed funds for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE BENEFIT PAYMENTS	TOTAL
I. DIVISION OF FINANCIAL MANAGEMENT:					
FROM:					
General Fund	$1,171,000	$ 247,200	$11,500		$1,429,700
Miscellaneous Revenue Fund	54,200	9,200	500		63,900
TOTAL	$1,225,200	$ 256,400	$12,000		$1,493,600
II. RURAL DEVELOPMENT COUNCIL:					
FROM:					
Federal Grant Fund	$ 95,100	$ 43,000			$ 138,100
Miscellaneous Revenue Fund		25,000			25,000
TOTAL	$ 95,100	$ 68,000			$ 163,100
III. SILVER VALLEY TRUST FUND:					
FROM:					
Silver Valley Trust Fund	$ 58,700	$1,661,400			$1,720,100
IV. BUNKER HILL TRUST FUND:					
FROM:					
Bunker Hill Trust Fund				$70,000	70,000
GRAND TOTAL	$1,379,000	$1,985,800	$12,000	$70,000	$3,446,800

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Division of Financial Management is authorized no more than twenty-two (22) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, 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. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after its passage and approval.

Approved March 15, 1996.

CHAPTER 278
(S.B. No. 1561)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1997; LIMITING 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 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, 1996, through June 30, 1997:

FOR:	
Personnel Costs	$706,600
Operating Expenditures	260,700
Capital Outlay	30,000
TOTAL	$997,300
FROM:	
General Fund	$997,300

SECTION 2. 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, 1996, through June 30, 1997, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the State Board of Education for the Office of the State Board of Education the unexpended and unencumbered balance of any General Fund appropriation contained in Section 3, Chapter 355, Laws of 1995, to be used for nonrecurring expenditures for the period July 1, 1996, through June 30, 1997.

SECTION 4. The reappropriation granted in Section 3 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1996, 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, 1996, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the Office of the State Board of Education bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 15, 1996.

CHAPTER 279
(S.B. No. 1562)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 1997; TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE LIBRARY IMPROVE-

MENT 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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,523,900	$506,200	$170,500	$ 50,000	$2,250,600
Federal Grant Fund	146,000	176,700	10,000	659,900	992,600
Miscellaneous Revenue Fund		10,200	7,000	58,000	75,200
TOTAL	$1,669,900	$693,100	$187,500	$767,900	$3,318,400

SECTION 2. The $50,000 in General Funds appropriated for Trustee and Benefit Payments in Section 1 of this act is hereby transferred to the Library Improvement Fund 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, 1996, through June 30, 1997, 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 236, Laws of 1995, to be used for nonrecurring expenditures for the period July 1, 1996, through June 30, 1997.

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, 1996, 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, 1996, 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 State Library Board bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 15, 1996.

CHAPTER 280
(S.B. No. 1548)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1997; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME POSITIONS; APPROPRIATING AND TRANSFERRING CERTAIN MONEYS TO THE PARKS AND RECREATION FUND; REAPPROPRIATING CERTAIN FUNDS FOR CAPITAL OUTLAY; APPROPRIATING MONEYS IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 312, LAWS OF 1995; AND DECLARING AN EMERGENCY FOR SECTION 5 OF THIS ACT.

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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Fund	$ 899,200	$ 534,900	$ 61,000		$ 1,495,100
Parks and Recreation Fund	364,600	382,600	14,000		761,200
Recreational Fuels Fund		31,100	6,000		37,100
Parks and Recreation Registration Fund		15,700			15,700
Federal Grant Fund	14,800	3,100		$ 36,400	54,300
Indirect Cost Recovery Fund	45,400	6,000			51,400
Miscellaneous Revenue Fund	4,300	31,900			36,200
TOTAL	$1,328,300	$1,005,300	$ 81,000	$ 36,400	$ 2,451,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. PARK OPERATIONS:					
FROM:					
General Fund	$3,361,300	$ 549,100	$ 25,000		$ 3,935,400
Parks and Recreation Fund	904,800	624,200	18,400		1,547,400
Recreational Fuels Fund		30,000	410,000		440,000
Public Recreation Enterprise Fund	176,400	467,500	194,000		837,900
Parks and Recreation Expendable Trust Fund	85,100	359,600			444,700
Federal Grant Fund	380,900	126,400			507,300
Miscellaneous Revenue Fund		55,000			55,000
TOTAL	$4,908,500	$2,211,800	$ 647,400		$ 7,767,700
C. PARK DEVELOPMENT:					
FROM:					
General Fund	$ 223,100		$ 677,500		$ 900,600
Parks and Recreation Fund	49,300	$ 47,100			96,400
Recreational Fuels Fund	133,200		793,900		927,100
Parks and Recreation Expendable Trust Fund			10,000		10,000
TOTAL	$ 405,600	$ 47,100	$1,481,400		$ 1,934,100
D. RECREATION RESOURCES:					
FROM:					
General Fund	$ 145,000	$ 26,800			$ 171,800
Parks and Recreation Fund		33,200		$ 12,000	45,200
Recreational Fuels Fund	321,000	81,800	$ 589,400	1,379,800	2,372,000
Parks and Recreation Registration Fund	117,800	183,900	33,300	4,600,700	4,935,700
Federal Grant Fund	63,200	91,400		710,800	865,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Indirect Cost Recovery Fund	92,600	3,500			96,100
TOTAL	$ 739,600	$ 420,600	$ 622,700	$6,703,300	$ 8,486,200
E. LAVA HOT SPRINGS FOUNDATION:					
FROM:					
Public Recreation Enterprise Fund	$ 436,100	$ 398,800	$ 9,000		$ 843,900
GRAND TOTAL	$7,818,100	$4,083,600	$2,841,500	$6,739,700	$21,482,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Parks and Recreation is authorized no more than one hundred forty-five and seventy-four one hundredths (145.74) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby 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 4. 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 1996, to be used for the Park Development Program for the period July 1, 1996, through June 30, 1997.

SECTION 5. In addition to the appropriation made in Section 1, Chapter 312, Laws of 1995, there is hereby appropriated to the Department of Parks and Recreation the following amounts to be expended for the designated program according to the designated standard expense classification from the listed funds for the period of July 1, 1995, through June 30, 1996:

PARK OPERATIONS:	
FOR:	
Operating Expenditures	$41,400
FROM:	
Parks and Recreation Fund	$28,900
Public Recreation Enterprise Fund	12,500
TOTAL	$41,400

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 15, 1996.

CHAPTER 281
(S.B. No. 1354)

AN ACT

RELATING TO POWERS OF THE STATE BOARD OF LAND COMMISSIONERS; AMENDING SECTION 58-104, IDAHO CODE, TO AUTHORIZE THE STATE BOARD OF LAND COMMISSIONERS TO ENTER INTO A JOINT EXERCISE POWERS AGREEMENT WITH THE UNITED STATES FOREST SERVICE FOR THE MANAGEMENT OF CERTAIN UNITED STATES FOREST SERVICE LANDS AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 58-104, Idaho Code, be, and the same is hereby amended to read as follows:

58-104. STATE LAND BOARD -- POWERS AND DUTIES. The state board of land commissioners shall have power:

1. To exercise the general direction, control and disposition of the public lands of the state.

2. To appoint its executive officer, the director of the department of lands.

3. To perform legislative functions not inconsistent with law and to delegate to its executive officer and his assistants the execution of all policies adopted by it.

4. To review upon appeal all decisions of the director of the department of lands in contested matters.

5. To determine the policy, direct the work to be undertaken and appropriate from its funds the money necessary to carry out such work.

6. To prescribe ~~regulations~~ rules, not inconsistent with law, for the government of the department, the conduct of its employees and clerks, the distribution and performance of its business and the custody, use and preservation of the records, papers, books, documents, and property pertaining thereto.

7. To engage in reseeding and reforestation programs on the public lands of the state.

8. To exchange any public lands of the state, over which the board has power of disposition and control for lands of equal value, the title to which, or power of disposition, belongs or is vested in the governing body or board of trustees of any state governmental unit, agency or institution.

9. To regulate and control the use or disposition of lands in the beds of navigable lakes, rivers and streams, to the natural or ordinary high water mark thereof, so as to provide for their commercial, navigational, recreational or other public use; provided, that the

board shall take no action in derogation of or seeking to interfere with the riparian or littoral rights of the owners of upland property abutting or adjoining such lands; except that when necessary to provide for the highest and best use of such lands for commercial, navigational, recreational or other public purposes, the board may acquire the riparian or littoral rights of upland owners by purchase or gift. The term "natural or ordinary high water mark" as herein used shall be defined to be the line which the water impresses on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes. Provided that this definition shall not be construed so as to affect or change the vested property rights of either the state of Idaho or of riparian or littoral property owners. Lands lying below the meander line of a lake bed encompassing a national wildlife refuge as established under the authority of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222), as amended, or the Fish and Wildlife Coordination Act (48 Stat. 401), as amended, or the Fish and Wildlife Act of 1956 (70 Stat. 1119), as amended (16 USC 742a through 742i), are not subject to the application of this act.

10. To enter into a joint exercise of powers agreement with the United States forest service in the department of agriculture, pursuant to section 67-2328, Idaho Code.

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

Approved March 15, 1996.

CHAPTER 282
(H.B. No. 704)

AN ACT

RELATING TO INTERIM AUTHORITY FOR RENTAL OF WATER TO AUGMENT FLOWS DURING THE MIGRATION OF SNAKE RIVER SALMON; AMENDING CHAPTER 17, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1763B, IDAHO CODE, TO STATE LEGISLATIVE FINDINGS AND INTENT, TO PROVIDE WATER RENTALS, TO PROVIDE CONDITIONS ON WATER RENTALS, TO PROVIDE APPLICATION TO CERTAIN CONTRACTUAL OBLIGATIONS, TO PROVIDE EFFECTIVENESS CONTINGENT ON CERTAIN CONDITIONS OCCURRING AND TO PROVIDE A SUNSET CLAUSE.

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

SECTION 1. That Chapter 17, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1763B, Idaho Code, and to read as follows:

42-1763B. INTERIM AUTHORITY FOR RENTAL OF STORAGE WATER TO AUGMENT FLOWS DURING THE MIGRATION OF SNAKE RIVER SALMON. (1) Legislative

findings and intent regarding rental of storage water from U.S. bureau of reclamation projects in the Snake River basin within Idaho to augment lower Snake River flows during the migration of Snake River salmon.

(a) The legislature finds that the U.S. bureau of reclamation requested the release of four hundred twenty-seven thousand (427,000) acre feet of water to augment salmon flows in order to satisfy the conditions of the biological opinion issued by the national marine fisheries service on March 2, 1995. The legislature authorizes the U.S. bureau of reclamation to release water from its projects under the limited conditions of this section in 1996, 1997, 1998 and 1999.

(b) It is the intent of the legislature to promptly consider the repeal of subsections (2) and (3) of this section in the event that the provisions of the biological opinion issued by the national marine fisheries service on March 2, 1995, related to the provision of flows for salmon from the Snake River basin above Brownlee Reservoir are modified or declared arbitrary, capricious or otherwise unlawful, or are set aside by any federal court.

(2) Rental of storage water from U.S. bureau of reclamation storage.

(a) Notwithstanding the legislative approval required in section 42-108, Idaho Code, any storage water release from U.S. bureau of reclamation reservoirs within the state of Idaho for use to augment river flows during the migration of Snake River salmon pursuant to this section must be rented through the water bank operated by the Idaho water resource board pursuant to sections 42-1761 through 42-1764, Idaho Code, or through local water rental committees, created pursuant to section 42-1765, Idaho Code, under their respective water bank rules; provided however, that the agricultural preference provisions of local rental pool rules shall not apply to any uncontracted space rented by the U.S. bureau of reclamation pursuant to this section.

(b) For any rental of water pursuant to this section, the director shall not be required to determine under section 42-1763, Idaho Code, whether the water supply is sufficient for the purpose for which it is sought, whether the rental would cause the use of water to be enlarged beyond that authorized under the water right to be rented, whether such use is in the public interest, or whether such use is consistent with the factors enumerated under subsection (3) of section 42-401, Idaho Code.

(3) Conditions on storage water rentals.

(a) Any storage water made available under this section shall be obtained only from willing lessors. Any water rented under this section from reservoirs located within a basin having a local rental pool committee established pursuant to section 42-1765, Idaho Code, shall be rented pursuant to this section only through the local rental pool committee.

(b) Storage water made available under this section shall be limited to four hundred twenty-seven thousand (427,000) acre feet annually. These releases from storage shall be reduced by other water the U.S. bureau of reclamation provides for augmentation of salmon flows from the Snake River and its tributaries.

(c) In no event shall the release of water under this section cause the water surface of Cascade Reservoir to be below the elevation required to maintain a storage volume of three hundred thousand (300,000) acre feet, fifty thousand (50,000) acre feet of which is dead space, which is currently estimated to be at an elevation of four thousand eight hundred nine and two-tenths (4,809.2) feet.

(d) The U.S. bureau of reclamation shall submit a report to the director by January 15 of each year describing the time, volume, and purpose of storage water released for salmon purposes during the past year and shall report on the plan for releases for the spring and summer chinook by April 1 and on the plan for releases for the fall chinook by July 15 of each year.

(e) All storage water rented from U.S. bureau of reclamation reservoirs under this section must be used for power production purposes within the state of Idaho.

(f) Nothing herein shall entitle the U.S. bureau of reclamation to rent storage water upon termination or expiration of the permission given in this section.

(4) Nothing in this section shall be construed to alter in any way the existing contractual obligations of the U.S. bureau of reclamation or to constitute a finding by the legislature that the rental or use of storage water for augmentation of flows for salmon migration is a beneficial use of water, that it is in the public interest, or whether such use injures existing water rights.

(5) This section shall not become effective until the director certifies to the governor that the U.S. bureau of reclamation's applications to transfer water right numbers 4616, 4617, 4618, 4623, 4625, 4626, 4627, 4628, 4629, 4630, 4631, 4632, 4633 and 4636, and to amend water right permit numbers 25-07004 and 63-3618 will be held in abeyance until July 1, 1999.

(6) On and after January 1, 2000, this act shall be null, void and of no force and effect.

Approved March 15, 1996.

CHAPTER 283

(H.B. No. 448, As Amended in the Senate, As Amended in the Senate)

AN ACT

RELATING TO OPTIONAL FORMS OF COUNTY GOVERNMENT; AMENDING TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 50, TITLE 31, IDAHO CODE, TO PROVIDE FOR OPTIONAL FORMS OF COUNTY GOVERNMENT, SPECIFYING THE CONSTITUTIONAL BASIS FOR THE OPTIONAL FORMS OF COUNTY GOVERNMENT ACT AND LISTING THE EXCLUSIVE OPTIONAL FORMS OF COUNTY GOVERNMENT, PROVIDING A SHORT TITLE AND THE APPLICATION OF THE ACT, PROVIDING DEFINITIONS, PROVIDING FOR A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OR A PETITION OF THE PEOPLE TO ADOPT AN OPTIONAL FORM OF COUNTY GOVERNMENT, PROVIDING THE CONTENTS OF THE PETITION AND PROVIDING THAT THE QUESTION OF ADOPTING AN OPTIONAL FORM SHALL BE SUBMITTED AT THE GENERAL ELECTION, PROVID-

ING THE QUESTION TO BE SUBMITTED TO THE ELECTORS AND FOR ADOPTION OF THE OPTION RECEIVING THE GREATEST NUMBER OF VOTES IF MORE THAN ONE OPTIONAL FORM IS APPROVED BY A MAJORITY OF THE ELECTORS, PROVIDING GENERAL TRANSITION PROVISIONS, PROVIDING FOR ANY CHANGE IN STATUS OF ELECTED OFFICERS, PROVIDING FOR TREATMENT OF EXISTING ORDINANCES AND RESOLUTIONS, PROVIDING THE EFFECT OF ADOPTION OF AN OPTIONAL FORM ON FINANCIAL OBLIGATIONS OF THE COUNTY, AND PROVIDING THAT IF AN OPTIONAL FORM OF COUNTY GOVERNMENT IS ADOPTED, THE QUESTION OF RETURNING TO THE PREVIOUS FORM OF GOVERNMENT OR ADOPTING ANOTHER OPTIONAL FORM OF GOVERNMENT MAY NOT BE SUBMITTED TO THE ELECTORS MORE FREQUENTLY THAN EACH FOUR YEARS; AMENDING TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 51, TITLE 31, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF A STUDY COMMISSION TO EXAMINE THE EXISTING FORM OF COUNTY GOVERNMENT AND DETERMINE WHETHER AN OPTIONAL FORM OF GOVERNMENT SHOULD BE PROPOSED, PROVIDING THE QUALIFICATIONS OF A MEMBER OF THE STUDY COMMISSION, PROVIDING THE TERM OF A MEMBER OF THE STUDY COMMISSION AND THE MANNER OF FILLING VACANCIES, PROVIDING FOR THE ORGANIZATION, MEETINGS AND CONDUCT OF BUSINESS OF THE STUDY COMMISSION, PROVIDING FOR THE FINAL REPORT OF THE STUDY COMMISSION, AND PROVIDING FOR AN ELECTION ON AN OPTIONAL FORM RECOMMENDED BY THE COMMISSION; AMENDING TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 52, TITLE 31, IDAHO CODE, TO PROVIDE FOR THE COMMISSION-EXECUTIVE FORM OF COUNTY GOVERNMENT, PROVIDING FOR A BOARD OF COUNTY COMMISSIONERS AND AN ELECTED EXECUTIVE, PROVIDING FOR THE ELECTION OF THE EXECUTIVE AFTER ADOPTION OF THE FORM, PROVIDING THE QUALIFICATIONS AND OFFICE OF THE EXECUTIVE, PROVIDING THE POWERS OF THE EXECUTIVE, PROVIDING FOR THE EXECUTIVE'S VETO POWER, PROVIDING FOR AN INCREASE IN THE SIZE OF THE BOARD OF COUNTY COMMISSIONERS UNDER THE COMMISSION-EXECUTIVE FORM, PROVIDING FOR THE ELECTION OF ADDITIONAL COMMISSIONERS AND PROVIDING FOR THE ELECTION OF ALL COMMISSIONERS TO FOUR-YEAR TERMS, PROVIDING FOR A DESCRIPTION OF ALL OTHER COUNTY OFFICES IN THE PETITION OR RESOLUTION TO ADOPT THE COMMISSION-EXECUTIVE FORM, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY CLERK, EX OFFICIO AUDITOR AND RECORDER, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY TREASURER, EX OFFICIO TAX COLLECTOR AND PUBLIC ADMINISTRATOR, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY ASSESSOR, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY SHERIFF, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY CORONER, AND PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF PROSECUTING ATTORNEY; AMENDING TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 53, TITLE 31, IDAHO CODE, TO PROVIDE FOR THE COMMISSION-MANAGER FORM OF COUNTY GOVERNMENT, PROVIDING FOR A BOARD OF COUNTY COMMISSIONERS AND AN APPOINTED MANAGER, PROVIDING FOR THE QUALIFICATIONS AND APPOINTMENT OF THE MANAGER, PROVIDING THE POWERS AND DUTIES OF THE MANAGER, PROVIDING FOR AN OPTIONAL INCREASE IN THE SIZE OF THE BOARD OF COUNTY COMMISSIONERS UNDER THE COMMISSION MANAGER FORM, PROVIDING FOR THE ELECTION OF ADDITIONAL COMMISSIONERS AND PROVIDING THE OPTION THAT ALL COMMISSIONERS MAY BE ELECTED TO FOUR-YEAR TERMS, PROVIDING FOR A DESCRIPTION OF ALL OTHER COUNTY OFFICES IN THE PETITION OR RESOLUTION TO ADOPT

THE COMMISSION-MANAGER FORM, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY CLERK, EX OFFICIO AUDITOR AND RECORDER, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY TREASURER, EX OFFICIO TAX COLLECTOR AND PUBLIC ADMINISTRATOR, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY ASSESSOR, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY SHERIFF, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY CORONER, AND PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF PROSECUTING ATTORNEY; AMENDING TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 54, TITLE 31, IDAHO CODE, TO PROVIDE FOR A FORM OF COUNTY GOVERNMENT TO CONSIST OF A THREE-MEMBER BOARD OF COUNTY COMMISSIONERS WITH CHANGES IN OTHER COUNTY OFFICES, PROVIDING FOR THE AUTHORITY OF THE BOARD OF COUNTY COMMISSIONERS AND PROVIDING THE OPTION THAT ALL COMMISSIONERS MAY BE ELECTED TO FOUR-YEAR TERMS, PROVIDING FOR A DESCRIPTION OF ALL OTHER COUNTY OFFICES IN THE PETITION OR RESOLUTION TO ADOPT THE COMMISSION-MANAGER FORM, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY CLERK, EX OFFICIO AUDITOR AND RECORDER, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY TREASURER, EX OFFICIO TAX COLLECTOR AND PUBLIC ADMINISTRATOR, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY ASSESSOR, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY SHERIFF, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY CORONER, AND PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF PROSECUTING ATTORNEY; AMENDING TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 55, TITLE 31, IDAHO CODE, TO PROVIDE FOR AN OPTIONAL FORM OF COUNTY GOVERNMENT CONSISTING OF A FIVE-MEMBER BOARD OF COUNTY COMMISSIONERS, PROVIDING THE OPTION THAT ALL COMMISSIONERS MAY BE ELECTED TO FOUR-YEAR TERMS, PROVIDING FOR THE ELECTION OF ADDITIONAL COMMISSIONERS, PROVIDING FOR THE APPOINTMENT BY THE BOARD OF COUNTY COMMISSIONERS OF AN EXECUTIVE BOARD COMPRISED OF THREE COMMISSIONERS, PROVIDING FOR A DESCRIPTION OF ALL OTHER COUNTY OFFICES IN THE PETITION OR RESOLUTION TO ADOPT THE FIVE-MEMBER BOARD OF COUNTY COMMISSIONERS FORM, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY CLERK, EX OFFICIO AUDITOR AND RECORDER, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY TREASURER, EX OFFICIO TAX COLLECTOR AND PUBLIC ADMINISTRATOR, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY ASSESSOR, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY SHERIFF, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY CORONER, AND PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF PROSECUTING ATTORNEY; AMENDING TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 56, TITLE 31, IDAHO CODE, TO PROVIDE FOR AN OPTIONAL FORM OF COUNTY GOVERNMENT CONSISTING OF A SEVEN-MEMBER BOARD OF COUNTY COMMISSIONERS, PROVIDING THE OPTION THAT ALL COMMISSIONERS MAY BE ELECTED TO FOUR-YEAR TERMS, PROVIDING FOR THE ELECTION OF ADDITIONAL COMMISSIONERS, PROVIDING FOR THE OPTIONAL APPOINTMENT BY THE BOARD OF COUNTY COMMISSIONERS OF AN EXECUTIVE BOARD COMPRISED OF THREE COMMISSIONERS, PROVIDING FOR A DESCRIPTION OF ALL OTHER COUNTY OFFICES IN THE PETITION OR RESOLUTION TO ADOPT THE SEVEN-MEMBER BOARD OF

COUNTY COMMISSIONERS FORM, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY CLERK, EX OFFICIO AUDITOR AND RECORDER, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY TREASURER, EX OFFICIO TAX COLLECTOR AND PUBLIC ADMINISTRATOR, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY ASSESSOR, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY SHERIFF, PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF COUNTY CORONER, AND PROVIDING THE OPTIONS AVAILABLE WITH RESPECT TO THE OFFICE OF PROSECUTING ATTORNEY; AMENDING TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 57, IDAHO CODE, TO PROVIDE FOR A FORM OF GOVERNMENT CONSISTING OF THE CONSOLIDATION OF OFFICES AMONG COUNTIES WITH ALL OTHER CHARACTERISTICS OF THE GOVERNMENT OF EACH PARTICIPATING COUNTY REMAINING UNCHANGED, PROVIDING FOR A PETITION OR RESOLUTION TO CONSOLIDATE AN OFFICE BETWEEN TWO OR MORE COUNTIES, PROVIDING THAT THE PROPOSAL FOR CONSOLIDATION MUST BE THE SAME IN ALL PARTICIPATING COUNTIES, PROVIDING THAT NO OTHER OPTIONAL FORM OF COUNTY GOVERNMENT MAY BE PROPOSED IN A RESOLUTION OR PETITION TO CONSOLIDATE OFFICES AMONG COUNTIES, PROVIDING THAT THE CONSOLIDATION MUST BE APPROVED BY A MAJORITY OF THE VOTERS IN EACH COUNTY VOTING SEPARATELY AND THAT THE CONSOLIDATION MUST BE APPROVED BY ALL PARTICIPATING COUNTIES OR THE MEASURE IS DEFEATED, PROVIDING THE QUESTION TO BE SUBMITTED TO THE ELECTORS IN EACH PARTICIPATING COUNTY, PROVIDING THE CONTENTS OF THE RESOLUTION OR PETITION WITH RESPECT TO EACH OFFICE PROPOSED FOR CONSOLIDATION AND PROVIDING THAT EACH COUNTY REMAINS INDIVIDUALLY RESPONSIBLE FOR THE PERFORMANCE OF THE DUTIES AND RESPONSIBILITIES OF THE OFFICE BEING CONSOLIDATED; AMENDING SECTION 31-717, IDAHO CODE, TO PROVIDE THAT PETITIONERS FOR A COUNTY INITIATIVE OR REFERENDUM, WHICH BY REFERENCE INCLUDES A PETITION TO ADOPT AN OPTIONAL FORM OF COUNTY GOVERNMENT, SHALL HAVE A PERIOD OF SIX MONTHS TO GATHER THE NECESSARY SIGNATURES FOR THE PETITION; AMENDING SECTION 31-818, IDAHO CODE, TO CLARIFY THAT A BOARD OF COUNTY COMMISSIONERS MAY EMPLOY ADMINISTRATIVE ASSISTANTS AND MAY APPOINT A COMMISSIONER TO ACT AS ADMINISTRATOR AND TO EXEMPT THE APPOINTMENT OF A COMMISSIONER AS ADMINISTRATOR FROM THE APPLICATION OF THE OPTIONAL FORMS OF COUNTY GOVERNMENT ACT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 50, Title 31, Idaho Code, and to read as follows:

CHAPTER 50
OPTIONAL FORMS OF COUNTY GOVERNMENT
GENERAL PROVISIONS

31-5001. CONSTITUTIONAL BASIS -- EXCLUSIVE OPTIONAL FORMS OF COUNTY GOVERNMENT. (1) The purpose of this act is to establish optional forms of county government in compliance with section 12, article XVIII of the Idaho constitution. In addition to the original three (3) member board of county commissioners form of county govern-

ment authorized by the constitution and laws of the state of Idaho before the enactment of section 12, article XVIII of the Idaho constitution, the following shall be the exclusive optional forms of county government:

(a) The commission-executive, as authorized in chapter 52, title 31, Idaho Code;

(b) The commission-manager, as authorized in chapter 53, title 31, Idaho Code;

(c) The three-member board of county commissioners with changes in other county offices, as authorized in chapter 54, title 31, Idaho Code;

(d) The five-member board of county commissioners, as authorized in chapter 55, title 31, Idaho Code;

(e) The seven-member board of county commissioners, as authorized in chapter 56, title 31, Idaho Code;

(f) Consolidation of offices among counties, with all other characteristics of the government of each participating county to remain unchanged, as authorized in chapter 57, title 31, Idaho Code.

(2) The adoption of an optional form of county government shall not relieve a county from the performance of the duties and responsibilities imposed upon the county, the board of county commissioners or any elected officer of the county by the constitution and laws of the state of Idaho.

31-5002. SHORT TITLE -- APPLICATION. (1) This act shall be known and may be cited as the "Optional Forms of County Government Act."

(2) The provisions of chapters 50 and 51, title 31, Idaho Code, shall apply to chapters 52 through 57, title 31, Idaho Code.

31-5003. DEFINITIONS. As used in chapters 50 through 57, title 31, Idaho Code:

(1) "Governing body" shall mean the board of county commissioners of the county or other legislative body governing the county under an optional form of county government approved by the electors of the county.

(2) "Officer" shall mean a member of the board of county commissioners, the clerk of the district court, ex officio auditor and recorder, the county treasurer, ex officio tax collector and public administrator, the county assessor, the county sheriff, the county coroner, the county prosecutor, or the holder of any other office of the county approved by the electors upon the adoption of an optional form of government.

(3) "Optional form of county government" shall mean any optional form of county government authorized by chapters 50 through 57, title 31, Idaho Code, or any subsequent act of the legislature.

(4) "Study commission" shall mean the body which may be appointed to review the government of the county and recommend which, if any, optional form of county government should be proposed to the electors.

31-5004. PETITION OR RESOLUTION TO ADOPT AN OPTIONAL FORM OF COUNTY GOVERNMENT -- CONTENTS -- QUESTION TO BE SUBMITTED AT GENERAL ELECTION. (1) The governing body of each county shall have the author-

ity to submit to the electors of the county the question of the adoption of an optional form of county government as follows:

(a) The governing body may pass a resolution providing for the submission of the question;

(b) The governing body shall submit the question upon a petition signed by petitioners equal in number to fifteen percent (15%) of the qualified electors voting in the county in the last general election.

(2) A separate petition or resolution shall be required for each optional form of county government proposed.

(3) The petition or resolution to establish an optional form of county government shall contain:

(a) A complete description of the proposed optional form of government as required under the provisions of the chapter pertaining to the form of government proposed to be adopted and under any other provisions of this act;

(b) A description of the effect of adopting the option upon any incumbents;

(c) A statement that if an optional form is adopted the question to return to the previous form or any other optional form of county government may be placed at subsequent elections but not more frequently than every four (4) years.

(4) The question of adopting an optional form of county government shall be submitted at the general election.

(5) The provisions of section 31-717, Idaho Code, shall govern the requirements for signatures, verification of valid petitions, printing and review of petitions, and time limits, unless expressly modified by other provisions of this act. The petition must be certified as provided in section 31-717, Idaho Code, prior to September 1 of the year of the general election at which the question of adopting the optional form of government proposed by the petition is to appear on the ballot.

31-5005. ELECTION TO ADOPT OPTIONAL FORM OF COUNTY GOVERNMENT -- BALLOT QUESTION -- MORE THAN ONE OPTION ON THE BALLOT. (1) The question of adopting an optional form of county government shall be submitted to the electors in substantially the following form:

Vote for one:

In favor of retaining the (name current form of government) form of county government.

In favor of adopting the (name optional form) form of county government.

(2) If more than one (1) optional form of county government is to be presented to the electors the questions shall be submitted in substantially the following form:

Vote for one:

In favor of retaining the (name current form of government) form of county government.

In favor of adopting the (name optional form) form of county government.

Vote for one:

In favor of retaining the (name current form of government) form of county government.

In favor of adopting the (name optional form) of county government.

If a majority of the electors favor more than one (1) option appearing on the ballot, the option receiving the greatest number of votes shall be adopted.

31-5006. GENERAL TRANSITION PROVISIONS. (1) The governing body shall prepare a plan for the orderly transition to an optional form of county government approved by the electors of the county. The development of the plan shall initiate within thirty (30) days after the optional form is approved by the electors and shall be completed within six (6) months.

(2) The governing body may enact and enforce ordinances to bring about an orderly transition to the new form of government, including the transfer of powers, records, documents, properties, assets, funds, liabilities or personnel. These ordinances shall be consistent with the optional form approved and shall be necessary or convenient to place it into full effect. Whenever a question arises concerning transition for which there is no provision, the governing body may provide for the transition by ordinance, rule or resolution not inconsistent with law.

31-5007. CHANGE IN STATUS OF ELECTED OFFICERS. Except as otherwise provided in this chapter or chapters 51 through 57, title 31, Idaho Code:

(1) An elected county officer whose office has become appointive or has been consolidated with another elective or appointive office under an optional form of government shall continue to perform the duties of office until his successor is appointed or elected and qualified. Thereafter the position held by the elected officer shall be deemed abolished.

(2) If the optional form of government consolidating an elective office with another office or making an elective office appointive is approved at an election at which the office was also filled by election, the office shall be declared abolished, the term of office not having commenced prior to the approval of the optional form.

(3) A petition or resolution proposing an optional form of county government may provide that an existing elected officer will continue in office until the end of the term for which he was elected or may provide that an existing elected officer will be retained as a county employee until the end of the term for which he was elected; provided that the person's salary shall not be reduced except as part of a general salary reduction.

(4) Nothing in this section precludes a former elected official from being appointed or elected to a position in county government.

31-5008. TREATMENT OF EXISTING ORDINANCES AND RESOLUTIONS. All ordinances and resolutions in effect at the time the optional form of government becomes effective shall continue in effect until repealed or amended in the manner provided by law.

31-5009. EFFECT OF ADOPTION OF AN OPTIONAL FORM OF COUNTY GOVERNMENT. Adoption of an optional form of county government shall not

affect the validity of any bond, debt, contract, obligation or cause of action accrued or established under the prior form of government.

31-5010. LIMITATION ON ELECTION TO CHANGE THE FORM OF COUNTY GOVERNMENT. In the event an optional form is adopted, the question whether to return to the original form or adopt any other optional form may be placed at subsequent elections, but not more frequently than each four (4) years.

SECTION 2. That Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 51, Title 31, Idaho Code, and to read as follows:

CHAPTER 51
STUDY COMMISSION

31-5101. APPOINTMENT OF STUDY COMMISSION. (1) The board of county commissioners may by resolution appoint a study commission, comprised of not less than five (5) nor more than nine (9) members, to study the existing form of county government, compare it to other optional forms and submit a report and any recommendations for change to the board.

(2) The board of county commissioners shall appoint a study commission upon the submission to it of a petition to appoint a study commission signed by petitioners equal in number to fifteen percent (15%) of the qualified electors voting in the county in the last general election.

(3) The resolution or petition shall state the number of commissioners to be appointed.

31-5102. STUDY COMMISSION -- QUALIFICATIONS. A member of a study commission shall be at least twenty-one (21) years of age and shall have resided in the county one (1) year preceding his appointment. Elected officials of the county then serving in office shall not be eligible.

31-5103. STUDY COMMISSION TERMS -- VACANCIES. (1) The term of office of a commission member initiates upon his appointment and concludes thirty (30) days after the issuance of the commission's final report.

(2) The governing body shall fill any vacancies occurring on the commission within thirty (30) days after the vacancy occurs.

(3) Members of the study commission shall serve without compensation, but may be reimbursed for expenses lawfully incurred in the performance of their duties.

31-5104. STUDY COMMISSION -- ORGANIZATION -- MEETINGS -- CONDUCT OF BUSINESS. (1) The commission shall meet within thirty (30) days of its appointment and shall organize by electing from its members a chairman, a vice-chairman, and a clerk-secretary.

(2) Meetings of the study commission shall be held upon the call of the chairman, the vice-chairman in the absence or inability of the chairman, or a majority of the members. A majority of the members of the study commission constitutes a quorum for the transaction of busi-

ness.

(3) All meetings, hearings and deliberations of the commission shall be subject to the provisions of sections 67-2340 through 67-2347, Idaho Code.

(4) The commission may prepare a proposed budget for its operation which shall be submitted to the governing body for approval.

(5) The commission may adopt rules governing its own organization and procedure.

(6) The commission shall keep written records of its proceedings and appropriate financial records. All such records shall be open for public inspection at the offices of the study commission during regular office hours.

(7) Subject to the approval of the governing body, the commission may employ and fix the compensation and duties of necessary research, clerical, legal and other staff.

(8) Upon the request of the chairman of the study commission, the officers and employees of state agencies, other counties and other units of local government shall furnish or make available to the commission such information as may be necessary for carrying out the commission's function.

(9) The commission may apply for and accept available private, state and federal funds and may accept donations from any source.

(10) A study commission may establish advisory boards and committees, including on them persons who are not members of the study commission.

(11) The governing body shall provide the commission with suitable space and access to county facilities for holding public hearings, may contribute clerical and other assistance to the commission, and shall provide the members and staff of the commission with information and assistance necessary to conduct a complete study of county government.

31-5105. FINAL REPORT OF STUDY COMMISSION. (1) Within one (1) year after its first meeting, the study commission shall submit its final report to the governing body. The commission shall conduct one (1) or more public hearings before submitting the final report to the governing body. The study commission may recommend an optional form or may recommend no changes in county government. The report shall be signed by a majority of the commission members. If the study commission recommends an optional form of county government, the final report shall contain:

(a) A complete description of the optional form of county government proposed, as required under the provisions of the chapter pertaining to the form of government proposed to be adopted and under any other provisions of this act; and

(b) A comparison of the existing form and proposed form of county government, including a statement of the strengths and weaknesses of the existing and proposed plans.

(2) Sufficient copies of the final report shall be prepared for public distribution and must be available not less than sixty (60) days prior to any election on adopting the recommended optional form.

(3) Within thirty (30) days after the commission submits the final report, the governing body shall publish a summary of the findings and recommendations contained in the final report in the official

newspaper of the county once each week for two (2) successive weeks. The summary shall indicate where the full text of the final report may be reviewed or obtained. The summary shall include a comparison of the existing form of county government and the proposed optional form.

(4) The commission shall be deemed dissolved within thirty (30) days after it has submitted its final report to the governing body.

31-5106. FINAL REPORT RECOMMENDING OPTIONAL FORM -- ELECTION. (1) If the commission is established by resolution of the governing body and the final report recommends that an optional form of county government be submitted to the electors, the governing body may submit the question at the next succeeding general election. The governing body shall determine whether the question will be submitted within thirty (30) days of receiving the final report and shall make a record of its decision, citing the reasons for any decision not to submit the question to the electors.

(2) If the commission is established by petition and the final report recommends that an optional form of county government be submitted to the electors, the governing body shall submit the question at the next succeeding general election.

SECTION 3. That Title 31, 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 31, Idaho Code, and to read as follows:

CHAPTER 52
COMMISSION-EXECUTIVE FORM OF COUNTY GOVERNMENT

31-5201. COMMISSION-EXECUTIVE FORM. The form of government provided in this chapter shall be known as the commission-executive. Each county operating under this form shall be governed by an elected board of county commissioners and an elected executive and the other officers specified in the resolution or petition from the choices provided in sections 31-5209 through 31-5214, Idaho Code.

31-5202. ELECTION OF EXECUTIVE. The executive shall be elected at the general election following the adoption of the commission-executive form of government provided in this chapter.

31-5203. QUALIFICATIONS AND OFFICE OF EXECUTIVE. (1) No person shall be elected to the office of executive unless he has attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States and has resided within the county one (1) year immediately preceding his election.

(2) Each candidate shall file his declaration of candidacy with the county clerk. Each declaration shall have attached thereto a petition which contains the signatures of not less than five (5) nor more than ten (10) qualified electors.

(3) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars ($40.00) which shall be deposited in the county treasury.

(4) The salary of the executive shall be set by the board of county commissioners and cannot be reduced except as a part of a gen-

eral salary reduction.

(5) The office of the executive shall be deemed vacant as provided in section 59-901, Idaho Code. The vacancy shall be filled according to the provisions of section 59-906A, Idaho Code.

31-5204. POWERS OF EXECUTIVE. (1) The executive shall be the chief administrative official of the county and shall have all the powers and perform all the duties of an executive and administrative nature vested in, or imposed upon, the county or the board of county commissioners by law or by agreement with any municipality or other subdivision of the state. In addition to such other responsibilities as may be imposed upon him by law the county executive shall:

(a) Report annually to the board of county commissioners and the people on the state of the county. He shall also recommend to the board of county commissioners whatever action or programs he deems necessary for the improvement of the county and the welfare of its residents;

(b) See that the ordinances of the county and the resolutions of the board of county commissioners are complied with and faithfully executed, execute all contracts and conveyances in the name of and on behalf of the county, and provide for the enforcement of all laws of the state subject to his enforcement or the enforcement of officers under his direction and supervision;

(c) Prepare and submit an annual budget for the county to the board of county commissioners. The executive shall be the county budget officer and shall be responsible for the performance of the duties of the county budget officer as provided in chapter 16, title 31, Idaho Code, and any other provisions of law imposing duties upon the county budget officer;

(d) Keep the board of county commissioners fully advised as to the financial condition and needs of the county and make such other reports from time to time as required by the board or as he deems necessary;

(e) Furnish the board of county commissioners with information concerning the operations of county departments, boards or commissions, necessary for the board to exercise its powers or as requested by the board;

(f) Preside over the meetings of the board of county commissioners and determine the order of business subject to any rules the board may prescribe, take part in the discussions, and recommend measures for adoption;

(g) Exercise the executive authority of the county to appoint, supervise, suspend and remove county personnel and make nominations and appointments to additional offices, advisory boards and committees.

(2) The executive may call special meetings of the board of county commissioners, the object of which shall be submitted to the board in writing.

(3) The executive may appoint an administrative assistant, qualified by education and experience, who shall be responsible for the orderly and efficient operation and coordination of the various departments, boards, and commissions of the county.

31-5205. VETO POWER. (1) The executive may sign or veto any ordinance or budget resolution adopted by the board of county commissioners. A veto by the executive may apply to all items or to any specific item of an ordinance or budget resolution appropriating money. Certification of a veto must be made by the executive within ten (10) days of the passage of the ordinance or budget resolution by the board of county commissioners. The board of county commissioners may override the veto by a two-thirds (2/3) vote of all its members called to a special session to consider the veto by a majority of its members.

(2) If the executive fails or refuses to sign any ordinance or budget resolution and return it with his written objections to the board of county commissioners within ten (10) days of the passage of the ordinance or resolution, it shall become law without his signature.

31-5206. BOARD OF COUNTY COMMISSIONERS -- OPTIONAL SIZE -- DISTRICTS TO BE REDRAWN. (1) The legislative authority of the county shall be vested in a board of county commissioners comprised of three (3), five (5) or seven (7) members. The petition or resolution shall specify the size of the board of county commissioners and shall indicate the term of office of the commission, as provided in section 31-5207, Idaho Code. In no event shall the term of office of any incumbent member of the board of county commissioners be affected as a result of an increase in the size of the board of county commissioners under the provisions of this chapter.

(2) If the size of the board of county commissioners is increased, at the regular meeting of the board in January, preceding any election of additional county commissioners, the board must divide the county into the number of districts equal to the number of commissioners approved by the electors. The districts established shall be as nearly equal in population as possible. The redrawing of an existing district which places the incumbent county commissioner for that district outside of its boundaries shall not disqualify or otherwise affect the qualifications of the commissioner during his incumbency.

31-5207. ELECTION OF ADDITIONAL COMMISSIONERS -- ALL MEMBERS OF COMMISSION MAY BE ELECTED TO FOUR YEAR TERMS. (1) If the size of the board of county commissioners is increased, the additional commissioners shall be elected at the following general election.

(2) Except as provided in subsection (3) of this section, the additional members shall be elected for a term of two (2) years, with the allotment of the four (4) year term between the entire commission to proceed in numerical rotation in accordance with the provisions of section 31-703, Idaho Code.

(3) Notwithstanding the provisions of section 31-703, Idaho Code, or any other provision of law to the contrary, the petition or resolution to adopt the optional form of government provided in this chapter may provide that all members of the board of county commissioners for the county be elected to serve terms of four (4) years. If approved by the electors, the commissioner for each additional district shall be elected to a term of four (4) years and commissioners for existing districts shall be elected to a term of four (4) years upon the expiration of the commissioner's current term of office.

31-5208. OTHER OFFICES. (1) The resolution or petition to adopt the commission-executive form of government shall further define the structure of the form by including one (1) selection from the choices specified for each of the offices listed in sections 31-5209 through 31-5214, Idaho Code.

(2) If the resolution or petition provides for the election of any new officers, such officers shall be elected at the general election following the adoption of the optional form of county government provided for in this chapter, or such earlier election date, subject to the provisions of section 34-106, Idaho Code, as provided in the petition or resolution.

31-5209. COUNTY CLERK, EX OFFICIO AUDITOR AND RECORDER. For purposes of this act the duties and responsibilities of the county clerk shall be as provided in chapter 10, title 1, Idaho Code, and chapter 7, title 31, Idaho Code, or as otherwise prescribed by law; the duties of the county clerk as ex officio county auditor shall be as provided in chapter 23, title 31, Idaho Code, or as otherwise prescribed by law; and the duties of the county clerk as ex officio county recorder shall be as provided in chapter 24, title 31, Idaho Code, or as otherwise prescribed by law. A county clerk, ex officio auditor and recorder:

(1) Shall continue to be elected to a term of four (4) years and perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office specified in the petition or resolution, but not to exceed four (4) years, and perform all the duties and responsibilities of the office; or

(3) Shall be appointed by the executive with the advice and consent of the board of county commissioners, be supervised by the executive and perform the duties and responsibilities of the county clerk, ex officio auditor and recorder; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this section. The petition or resolution shall identify the name of each office and the duties and responsibilities assigned to each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the county clerk, ex officio auditor and recorder to be performed by one (1) or more other qualified elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall specifically identify the duties of the office for which each other officer or appointee shall be responsible. The duties of the office as provided in chapter 10, title 1, Idaho Code, may not be combined with or assigned to the office of the sheriff or prosecuting attorney.

31-5210. COUNTY TREASURER, EX OFFICIO TAX COLLECTOR AND PUBLIC ADMINISTRATOR. For purposes of this act, the duties of the county treasurer as ex officio public administrator shall be as provided in chapter 1, title 14, Idaho Code; and the duties of the county treasurer as county treasurer and ex officio tax collector shall be as provided in chapters 15 and 21, title 31, Idaho Code, and title 63, Idaho Code, and as otherwise prescribed by law. A county treasurer, ex

officio tax collector and public administrator:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office to be specified in the petition or resolution, but not to exceed four (4) years, and perform all the duties and responsibilities of the office; or

(3) Shall be appointed by the executive with the advice and consent of the board of county commissioners, be supervised by the executive and perform all the duties of the office; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this section. The petition or resolution shall identify the name of each office and the duties and responsibilities assigned to each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall specifically identify those duties of the office for which each other officer or appointee shall be responsible.

31-5211. COUNTY ASSESSOR. For purposes of this act, the duties of the county assessor shall be as provided in title 63, Idaho Code, and as otherwise prescribed by law. A county assessor:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive with the advice and consent of the board of county commissioners, be supervised by the executive and perform all the duties of the office; or

(4) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall specifically identify those duties of the office for which each other officer or appointee shall be responsible.

31-5212. COUNTY SHERIFF. For purposes of this act, the duties of the county sheriff shall be as provided in chapter 22, title 31, Idaho Code, and as otherwise prescribed by law. A county sheriff:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive with the advice and consent of the board of county commissioners, be supervised by the executive and perform all the duties of the office; or

(4) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers or appointed persons as pro-

vided in the resolution or petition. The office of sheriff may not be consolidated with the office of the prosecuting attorney or the office of the clerk of the district court. The resolution or petition shall specifically identify those duties of the county sheriff for which each other officer or appointee shall be responsible.

31-5213. COUNTY CORONER. For purposes of this act the duties of the county coroner shall be as provided in chapter 28, title 31, Idaho Code, and as otherwise prescribed by law. A county coroner:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive with the advice and consent of the board of county commissioners, be supervised by the executive and perform all the duties of the office; or

(4) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall specifically identify those duties of the office for which each other officer or appointee shall be responsible.

31-5214. COUNTY PROSECUTING ATTORNEY. For purposes of this act, the duties of the county prosecuting attorney shall be as provided in chapter 26, title 31, Idaho Code, and as otherwise prescribed by law. A county prosecuting attorney:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive with the advice and consent of the board of county commissioners, be supervised by the executive, and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers or appointed persons, or by a qualified person retained by the county on a contractual basis, as provided in the resolution or petition. The office of prosecuting attorney may not be consolidated with the office of sheriff or the office of clerk of the district court. The resolution or petition shall specifically identify those duties of the office for which each other officer, appointee, or party to the contract shall be responsible.

SECTION 4. That Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 53, Title 31, Idaho Code, and to read as follows:

CHAPTER 53
COMMISSION-MANAGER

31-5301. COMMISSION-MANAGER FORM OF GOVERNMENT. The form of government provided in this chapter shall be known as the commission-manager. Each county operating under this form shall be governed by an elected board of county commissioners and a manager appointed by the board of county commissioners and the other officers specified in the resolution or petition from the choices provided in sections 31-5307 through 31-5312, Idaho Code.

31-5302. MANAGER -- QUALIFICATIONS -- APPOINTMENT. (1) The manager shall be the administrative head of the county and shall be appointed by the board of county commissioners on the basis of training, experience and administrative qualifications. The manager shall serve at the pleasure of the board and may be removed by the board at any time.

(2) The manager shall be appointed by the board as soon as practicable, but not later than six (6) months after the adoption of the commission-manager form of government.

(3) The board may appoint any county elected official to serve as the manager.

31-5303. POWERS AND DUTIES. The manager shall:

(1) Have general supervision of the administrative functions of the county;

(2) See that the ordinances, resolutions and contracts of the board of county commissioners are complied with and faithfully executed;

(3) Furnish the board with information concerning the operations of county departments, boards or commissions, as necessary for the board to exercise its powers or as requested by the board and submit any other reports requested by the board or as he deems necessary;

(4) Prepare and submit an annual budget for the county to the board of county commissioners. The manager shall be the county budget officer and shall be responsible for the performance of the duties of the county budget officer as provided in chapter 16, title 31, Idaho Code, and any other provisions of law imposing duties upon the county budget officer.

(5) Keep the board fully advised of the financial condition and needs of the county;

(6) Attend meetings of the board of county commissioners, take part in the discussions, but not vote, and recommend measures for adoption;

(7) Exercise the executive authority of the county to appoint, supervise, suspend and remove county personnel and make nominations and appointments to advisory boards and committees;

(8) Perform such other duties as the board may establish by ordinance or resolution.

31-5304. BOARD OF COUNTY COMMISSIONERS -- OPTIONAL SIZE -- DISTRICTS TO BE REDRAWN. (1) The legislative authority of the county shall be vested in a board of county commissioners comprised of three

(3), five (5) or seven (7) members. The petition or resolution shall specify the size of the board of county commissioners and shall indicate the term of office of the commission, as provided in section 31-5305, Idaho Code. In no event shall the term of office of any incumbent member of the board of county commissioners be affected as a result of an increase in the size of the board of county commissioners under the provisions of this chapter.

(2) If the size of the board of county commissioners is increased, at the regular meeting of the board in January, preceding any election of additional county commissioners, the board must divide the county into the number of districts equal to the number of commissioners approved by the electors. The districts established shall be as nearly equal in population as possible. The redrawing of an existing district which places the incumbent county commissioner for that district outside of its boundaries shall not disqualify or otherwise affect the qualifications of the commissioner during his incumbency.

31-5305. ELECTION OF ADDITIONAL COMMISSIONERS -- ALL MEMBERS OF COMMISSION MAY BE ELECTED TO FOUR YEAR TERMS. (1) If the size of the board of county commissioners is increased, the additional commissioners shall be elected at the following general election.

(2) Except as provided in subsection (3) of this section, the additional members shall be elected for a term of two (2) years, with the allotment of the four-year term between the entire commission to proceed in numerical rotation in accordance with the provisions of section 31-703, Idaho Code.

(3) Notwithstanding the provisions of section 31-703, Idaho Code, or any other provision of law to the contrary, the petition or resolution to adopt the optional form of government provided in this chapter may provide that all members of the board of county commissioners for the county be elected to serve terms of four (4) years. If approved by the electors, the commissioner for each additional district shall be elected to a term of four (4) years and commissioners for existing districts shall be elected to a term of four (4) years upon the expiration of the commissioner's current term of office.

31-5306. OTHER OFFICES. (1) The resolution or petition to adopt the commission executive form of government shall further define the structure of the form by including one (1) selection from the choices specified for each of the offices listed in sections 31-5307 through 31-5212, Idaho Code.

(2) If the resolution or petition provides for the election of any new officers, such officers shall be elected at the general election following the adoption of the optional form of county government provided for in this chapter.

31-5307. COUNTY CLERK, EX OFFICIO AUDITOR AND RECORDER. For purposes of this act the duties and responsibilities of the county clerk shall be as provided in chapter 10, title 1, Idaho Code, and chapter 7, title 31, Idaho Code, or as otherwise prescribed by law; the duties of the county clerk as ex officio county auditor shall be as provided in chapter 23, title 31, Idaho Code, or as otherwise prescribed by law; and the duties of the county clerk as ex officio county recorder

shall be as provided in chapter 24, title 31, Idaho Code, or as otherwise prescribed by law. A county clerk, ex officio auditor and recorder:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office specified in the petition or resolution, but not to exceed four (4) years, and perform the duties and responsibilities of the county clerk, auditor and recorder; or

(3) Shall be appointed by the manager with the advice and consent of the board of county commissioners, be supervised by the manager and perform the duties and responsibilities of the county clerk, ex officio auditor and recorder; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this section. The petition or resolution shall identify the name, duties and responsibilities of each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall identify the duties of the office for which each other officer or appointee shall be responsible. The duties of the office as provided in chapter 10, title 1, Idaho Code, may not be combined with or assigned to the office of the sheriff or prosecuting attorney.

31-5308. COUNTY TREASURER, EX OFFICIO TAX COLLECTOR AND PUBLIC ADMINISTRATOR. For purposes of this act, the duties of the county treasurer as ex officio public administrator shall be as provided in chapter 1, title 14, Idaho Code; and the duties of the county treasurer as county treasurer and ex officio tax collector shall be as provided in chapters 15 and 21, title 31, Idaho Code, and title 63, Idaho Code, and as otherwise prescribed by law. A county treasurer, ex officio tax collector and public administrator:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office to be specified in the petition or resolution, but not to exceed four (4) years, and perform all the duties and responsibilities of the office; or

(3) Shall be appointed by the manager with the advice and consent of the board of county commissioners, be supervised by the manager and perform all the duties of the office; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this section. The petition or resolution shall identify the name, duties and responsibilities of each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall identify those duties of the office for which each other officer or appointee

shall be responsible.

31-5309. COUNTY ASSESSOR. For purposes of this act, the duties of the county assessor shall be as provided in title 63, Idaho Code, and as otherwise prescribed by law. A county assessor:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the manager with the advice and consent of the board of county commissioners, be supervised by the manager and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall identify those duties of the office for which each other officer or appointee shall be responsible.

31-5310. COUNTY SHERIFF. For purposes of this act, the duties of the county sheriff shall be as provided in chapter 22, title 31, Idaho Code, and as otherwise prescribed by law. A county sheriff:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the manager with the advice and consent of the board of county commissioners, be supervised by the manager and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers or appointed persons as provided in the resolution or petition. The office of sheriff may not be consolidated with the office of the prosecuting attorney or the office of the clerk of the district court. The resolution or petition shall identify those duties of the county sheriff for which each other officer or appointee shall be responsible.

31-5311. COUNTY CORONER. For purposes of this act the duties of the county coroner shall be as provided in chapter 28, title 31, Idaho Code, and as otherwise prescribed by law. A county coroner:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the manager with the advice and consent of the board of county commissioners, be supervised by the manager and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other

elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall identify those duties of the office for which each other officer or appointee shall be responsible.

31-5312. COUNTY PROSECUTING ATTORNEY. For purposes of this act, the duties of the county prosecuting attorney shall be as provided in chapter 26, title 31, Idaho Code, and as otherwise prescribed by law. A county prosecuting attorney:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the manager with the advice and consent of the board of county commissioners, be supervised by the manager, and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers, appointed persons, or persons retained by the county on a contractual basis, as provided in the resolution or petition. The office of prosecuting attorney may not be consolidated with the office of sheriff or the office of clerk of the district court. The resolution or petition shall identify those duties of the office for which each other officer, appointee or party to the contract shall be responsible.

SECTION 5. That Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 54, Title 31, Idaho Code, and to read as follows:

CHAPTER 54
THREE-MEMBER BOARD OF COUNTY COMMISSIONERS
WITH CHANGES IN OTHER COUNTY OFFICES

31-5401. THREE-MEMBER BOARD OF COUNTY COMMISSIONERS WITH CHANGES IN OTHER OFFICES. The form of government provided in this chapter shall consist of an elected board of county commissioners comprised of three (3) members and the other officers specified in the resolution or petition from the choices provided in sections 31-5404 through 31-5409, Idaho Code.

31-5402. BOARD OF COUNTY COMMISSIONERS -- AUTHORITY -- CHANGE IN TERM OF OFFICE. (1) The board of county commissioners shall be vested with all executive and legislative authority of the county.

(2) Notwithstanding the provisions of section 31-703, Idaho Code, or any other provision of law to the contrary, the petition or resolution to adopt the optional form of government provided in this chapter may specify that all members of the board of county commissioners be elected to serve terms of four (4) years. If approved by the electors, the commissioner for each district shall be elected to a term of four (4) years upon the expiration of the commissioner's current term of office.

(3) The resolution or petition shall specify whether the provisions of section 31-703, Idaho Code, shall continue to govern the terms of office of the members of the commission or whether the terms of office of the members of the commission shall be changed as provided in subsection (2) of this section.

31-5403. OTHER OFFICES. (1) The resolution or petition to adopt the form of government provided in this chapter shall further define the structure of the form by including one (1) selection from the choices specified for the offices listed in sections 31-5404 through 31-5409, Idaho Code.

(2) If the resolution or petition provides for the election of any new officers, such officers shall be elected at the general election following the adoption of the optional form of county government provided for in this chapter.

31-5404. COUNTY CLERK, EX OFFICIO AUDITOR AND RECORDER. For purposes of this act the duties and responsibilities of the county clerk shall be as provided in chapter 10, title 1, Idaho Code, and chapter 7, title 31, Idaho Code, or as otherwise prescribed by law; the duties of the county clerk as ex officio county auditor shall be as provided in chapter 23, title 31, Idaho Code, or as otherwise prescribed by law; and the duties of the county clerk as ex officio county recorder shall be as provided in chapter 24, title 31, Idaho Code, or as otherwise prescribed by law. A county clerk, ex officio auditor and recorder:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office specified in the petition or resolution, but not to exceed four (4) years, and perform the duties and responsibilities of the county clerk, ex officio auditor and recorder; or

(3) Shall be appointed by the board of county commissioners and shall perform the duties and responsibilities of the county clerk, ex officio auditor and recorder; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this section. The petition or resolution shall identify the name, duties and responsibilities of each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall identify the duties of the office for which each other officer or appointee shall be responsible. The duties of the office as clerk of the district court, as provided in chapter 10, title 1, Idaho Code, may not be consolidated with the office of the sheriff or prosecuting attorney.

31-5405. COUNTY TREASURER, EX OFFICIO TAX COLLECTOR AND PUBLIC ADMINISTRATOR. For purposes of this act, the duties of the county treasurer as ex officio public administrator shall be as provided in chapter 1, title 14, Idaho Code; and the duties of the county trea-

surer as county treasurer and ex officio tax collector shall be as provided in chapters 15 and 21, title 31, Idaho Code, and title 63, Idaho Code, and as otherwise prescribed by law. A county treasurer, ex officio tax collector and public administrator:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office to be specified in the petition or resolution, but not to exceed four (4) years, and perform all the duties and responsibilities of the office; or

(3) Shall be appointed by the board of county commissioners and perform all the duties of the office; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this section. The petition or resolution shall identify the name, duties and responsibilities of each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall identify those duties of the office for which each other officer or appointee shall be responsible.

31-5406. COUNTY ASSESSOR. For purposes of this act, the duties of the county assessor shall be as provided in title 63, Idaho Code, and as otherwise prescribed by law. A county assessor:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall identify those duties of the office for which each other officer or appointee shall be responsible.

31-5407. COUNTY SHERIFF. For purposes of this act, the duties of the county sheriff shall be as provided in chapter 22, title 31, Idaho Code, and as otherwise prescribed by law. A county sheriff:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers or appointed persons as provided in the resolu-

tion or petition. The office of sheriff may not be consolidated with the office of the prosecuting attorney or the office of the clerk of the district court. The resolution or petition shall identify those duties of the county sheriff for which each other officer or appointee shall be responsible.

31-5408. COUNTY CORONER. For purposes of this act the duties of the county coroner shall be as provided in chapter 28, title 31, Idaho Code, and as otherwise prescribed by law. A county coroner:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall identify those duties of the office for which each other officer or appointee shall be responsible.

31-5409. COUNTY PROSECUTING ATTORNEY. For purposes of this act, the duties of the county prosecuting attorney shall be as provided in chapter 26, title 31, Idaho Code, and as otherwise prescribed by law. A county prosecuting attorney:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers, appointed persons, or persons retained on a contractual basis as provided in the resolution or petition. The office of prosecuting attorney may not be consolidated with the office of sheriff or the office of clerk of the district court. The resolution or petition shall identify those duties of the office for which each other officer, appointee or party to the contract shall be responsible.

SECTION 6. That Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 55, Title 31, Idaho Code, and to read as follows:

CHAPTER 55
FIVE-MEMBER BOARD OF COUNTY COMMISSIONERS

31-5501. FIVE-MEMBER BOARD OF COUNTY COMMISSIONERS. The form of government provided in this chapter shall consist of an elected board

of county commissioners comprised of five (5) members and the other officers specified in the resolution or petition from the choices provided in sections 31-5506 through 31-5511, Idaho Code.

31-5502. BOARD OF COUNTY COMMISSIONERS -- CHANGE IN TERM OF OFFICE. (1) The petition or resolution shall specify the terms of office of the five-member board of county commissioners, which may be as provided in this section.

(2) Except as provided in subsection (3) of this section, the additional members of the board of county commissioners shall be elected for a term of two (2) years, with the allotment of the four-year term between the entire commission to proceed in numerical rotation in accordance with the provisions of section 31-703, Idaho Code.

(3) Notwithstanding the provisions of section 31-703, Idaho Code, or any other provision of law to the contrary, the petition or resolution to adopt the optional form of government provided in this chapter may provide that all members of the board of county commissioners for the county be elected to serve terms of four (4) years. If approved by the electors, the commissioner for each additional district shall be elected to a term of four (4) years and commissioners for existing districts shall be elected to a term of four (4) years upon the expiration of the commissioner's current term of office.

31-5503. FIVE-MEMBER BOARD -- DISTRICTS TO BE REDRAWN -- ELECTION OF ADDITIONAL COMMISSIONERS. (1) Upon the adoption of the form of government provided in this chapter, at the regular meeting of the board in January, preceding any election of additional county commissioners, the board must divide the county into the number of districts equal to the number of commissioners approved by the electors. The districts established shall be as nearly equal in population as possible. The redrawing of an existing district which places the incumbent county commissioner for that district outside of its boundaries shall not disqualify or otherwise affect the qualifications of the commissioner during his incumbency.

(2) The two (2) additional commissioners shall be elected at the general election following the adoption of the form of government provided in this chapter.

(3) In no event shall the term of office of any incumbent member of the board of county commissioners be affected by the adoption of the form of government provided in this chapter.

31-5504. BOARD OF COUNTY COMMISSIONERS -- LEGISLATIVE AND EXECUTIVE AUTHORITY -- OPTIONAL EXECUTIVE BOARD. (1) Upon the adoption of the form of county government provided in this chapter, the legislative authority of the county and, except as provided in subsection (2) of this section, the executive authority of the county shall be vested in the five (5) member board of county commissioners.

(2) The executive authority of the county may be vested in an executive board comprised of three (3) members of the board of county commissioners chosen by the board as a whole, in a manner to be determined by the board. If the board of county commissioners determines to vest the executive authority of the county in an executive board, the board shall identify the manner in which the executive board shall

be chosen and shall choose the executive board within thirty (30) days of the adoption of the form of government provided in this chapter.

31-5505. OTHER OFFICES. (1) The resolution or petition to adopt the form of government provided in this chapter shall further define the structure of the form by including one (1) selection from the choices specified for each of the offices listed in sections 31-5506 through 31-5511, Idaho Code.

(2) If the resolution or petition provides for the election of any new officers, such officers shall be elected at the general election following the adoption of the optional form of county government provided for in this chapter.

31-5506. COUNTY CLERK, EX OFFICIO AUDITOR AND RECORDER. For purposes of this act the duties and responsibilities of the county clerk shall be as provided in chapter 10, title 1, Idaho Code, and chapter 7, title 31, Idaho Code, or as otherwise prescribed by law; the duties of the county clerk as ex officio county auditor shall be as provided in chapter 23, title 31, Idaho Code, or as otherwise prescribed by law; and the duties of the county clerk as ex officio county recorder shall be as provided in chapter 24, title 31, Idaho Code, or as otherwise prescribed by law. A county clerk, ex officio auditor and recorder:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office specified in the petition or resolution, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive board with the advice and consent of the entire board of county commissioners, be supervised by the executive board and perform all the duties and responsibilities of the office; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this section. The petition or resolution shall identify the name, duties and responsibilities of each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall identify the duties of the office for which each other officer or appointee shall be responsible. The duties of the office as provided in chapter 10, title 1, Idaho Code, may not be consolidated with the office of the sheriff or prosecuting attorney.

31-5507. COUNTY TREASURER, EX OFFICIO TAX COLLECTOR AND PUBLIC ADMINISTRATOR. For purposes of this act, the duties of the county treasurer as ex officio public administrator shall be as provided in chapter 1, title 14, Idaho Code; and the duties of the county treasurer as county treasurer and ex officio tax collector shall be as provided in chapters 15 and 21, title 31, Idaho Code, and title 63, Idaho Code, and as otherwise prescribed by law. A county treasurer, ex

officio tax collector and public administrator:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office to be specified in the petition or resolution, but not to exceed four (4) years, and perform all the duties and responsibilities of the office; or

(3) Shall be appointed by the executive board with the advice and consent of the entire board of county commissioners, be supervised by the executive board and perform all the duties of the office; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this section. The petition or resolution shall identify the name, duties and responsibilities of each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall specifically identify those duties of the office for which each other officer or appointee shall be responsible.

31-5508. COUNTY ASSESSOR. For purposes of this act, the duties of the county assessor shall be as provided in title 63, Idaho Code, and as otherwise prescribed by law. A county assessor:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive board with the advice and consent of the entire board of county commissioners, be supervised by the executive board and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall identify those duties of the office for which each other officer or appointee shall be responsible.

31-5509. COUNTY SHERIFF. For purposes of this act, the duties of the county sheriff shall be as provided in chapter 22, title 31, Idaho Code, and as otherwise prescribed by law. A county sheriff:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive board with the advice and consent of the board of county commissioners, be supervised by the executive board and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers or appointed persons as provided in the resolu-

tion or petition. The office of sheriff may not be consolidated with the office of the prosecuting attorney or the office of the clerk of the district court. The resolution or petition shall identify those duties of the county sheriff for which each other officer or appointee shall be responsible.

31-5510. COUNTY CORONER. For purposes of this act the duties of the county coroner shall be as provided in chapter 28, title 31, Idaho Code, and as otherwise prescribed by law. A county coroner:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive board with the advice and consent of the entire board of county commissioners, be supervised by the executive board and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall identify those duties of the office for which each other officer or appointee shall be responsible.

31-5511. COUNTY PROSECUTING ATTORNEY. For purposes of this act, the duties of the county prosecuting attorney shall be as provided in chapter 26, title 31, Idaho Code, and as otherwise prescribed by law. A county prosecuting attorney:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive board with the advice and consent of the entire board of county commissioners, be supervised by the executive board, and perform all the duties of the office; or

(4) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers, appointed persons or persons retained on a contractual basis as provided in the resolution or petition. The office of prosecuting attorney may not be consolidated with the office of sheriff or the office of clerk of the district court. The resolution or petition shall identify those duties of the office for which each other officer, appointee or party to the contract shall be responsible.

SECTION 7. That Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 56, Title 31, Idaho Code, and to read as follows:

CHAPTER 56
SEVEN-MEMBER BOARD OF COUNTY COMMISSIONERS

31-5601. SEVEN-MEMBER BOARD OF COUNTY COMMISSIONERS. The form of government provided in this chapter shall consist of an elected board of county commissioners comprised of seven (7) members and the other officers specified in the resolution or petition from the choices provided in sections 31-5606 through 31-5611, Idaho Code.

31-5602. BOARD OF COUNTY COMMISSIONERS -- CHANGE IN TERM OF OFFICE. (1) The petition or resolution shall specify the terms of office of the seven-member board of county commissioners, which may be as provided in this section.

(2) Except as provided in subsection (3) of this section, the additional members of the board of county commissioners shall be elected for a term of two (2) years, with the allotment of the four-year term between the entire commission to proceed in numerical rotation in accordance with the provisions of section 31-703, Idaho Code.

(3) Notwithstanding the provisions of section 31-703, Idaho Code, or any other provision of law to the contrary, the petition or resolution to adopt the optional form of government provided in this chapter may provide that all members of the board of county commissioners for the county be elected to serve terms of four (4) years. If approved by the electors, the commissioner for each additional district shall be elected to a term of four (4) years and commissioners for existing districts shall be elected to a term of four (4) years upon the expiration of the commissioner's current term of office.

31-5603. SEVEN-MEMBER BOARD -- DISTRICTS TO BE REDRAWN -- ELECTION OF ADDITIONAL COMMISSIONERS. (1) Upon the adoption of the form of government provided in this chapter, at the regular meeting of the board in January, preceding any election of additional county commissioners, the board must divide the county into the number of districts equal to the number of commissioners approved by the electors. The districts established shall be as nearly equal in population as possible. The redrawing of an existing district which places the incumbent county commissioner for that district outside of its boundaries shall not disqualify or otherwise affect the qualifications of the commissioner during his incumbency.

(2) The four (4) additional commissioners shall be elected at the general election following the adoption of the form of government provided in this chapter.

(3) In no event shall the term of office of any incumbent member of the board of county commissioners be affected by the adoption of the form of government provided in this chapter.

31-5604. BOARD OF COUNTY COMMISSIONERS -- LEGISLATIVE AND EXECUTIVE AUTHORITY -- OPTIONAL EXECUTIVE BOARD. (1) Upon the adoption of the form of county government provided in this chapter, the legislative authority of the county and, except as provided in subsection (2) of this section, the executive authority of the county shall be vested in the seven (7) member board of county commissioners.

(2) The executive authority of the county may be vested in an

executive board comprised of three (3) members of the board of county commissioners chosen by the board as a whole, in a manner to be determined by the board. If the board of county commissioners determines to vest the executive authority of the county in an executive board, the board shall identify the manner in which the executive board shall be chosen and shall choose the executive board within thirty (30) days of the adoption of the form of government provided in this chapter.

31-5605. OTHER OFFICES. (1) The resolution or petition to adopt the form of government provided in this chapter shall further define the structure of the form by including one (1) selection from the choices specified for each of the offices listed in sections 31-5606 through 31-5611, Idaho Code.

(2) If the resolution or petition provides for the election of any new officers, such officers shall be elected at the general election following the adoption of the optional form of county government provided for in this chapter.

31-5606. COUNTY CLERK, EX OFFICIO AUDITOR AND RECORDER. For purposes of this act the duties and responsibilities of the county clerk shall be as provided in chapter 10, title 1, Idaho Code, and chapter 7, title 31, Idaho Code, or as otherwise prescribed by law; the duties of the county clerk as ex officio county auditor shall be as provided in chapter 23, title 31, Idaho Code, or as otherwise prescribed by law; and the duties of the county clerk as ex officio county recorder shall be as provided in chapter 24, title 31, Idaho Code, or as otherwise prescribed by law. A county clerk, ex officio auditor and recorder:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office specified in the petition or resolution, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive board with the advice and consent of the entire board of county commissioners, be supervised by the executive board and perform all the duties and responsibilities of the office; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this section. The petition or resolution shall identify the name, duties and responsibilities of each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall identify the duties of the office for which each other officer or appointee shall be responsible. The duties of the office as provided in chapter 10, title 1, Idaho Code, may not be consolidated with the office of the sheriff or prosecuting attorney.

31-5607. COUNTY TREASURER, EX OFFICIO TAX COLLECTOR AND PUBLIC ADMINISTRATOR. For purposes of this act, the duties of the county

treasurer as ex officio public administrator shall be as provided in chapter 1, title 14, Idaho Code; and the duties of the county treasurer as county treasurer and ex officio tax collector shall be as provided in chapters 15 and 21, title 31, Idaho Code, and title 63, Idaho Code, and as otherwise prescribed by law. A county treasurer, ex officio tax collector and public administrator:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office to be specified in the petition or resolution, but not to exceed four (4) years, and perform all the duties and responsibilities of the office; or

(3) Shall be appointed by the executive board with the advice and consent of the entire board of county commissioners, be supervised by the executive board and perform all the duties of the office; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this section. The petition or resolution shall identify the name, duties and responsibilities of each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall specifically identify those duties of the office for which each other officer or appointee shall be responsible.

31-5608. COUNTY ASSESSOR. For purposes of this act, the duties of the county assessor shall be as provided in title 63, Idaho Code, and as otherwise prescribed by law. A county assessor:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive board with the advice and consent of the entire board of county commissioners, be supervised by the executive board and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall identify those duties of the office for which each other officer or appointee shall be responsible.

31-5609. COUNTY SHERIFF. For purposes of this act, the duties of the county sheriff shall be as provided in chapter 22, title 31, Idaho Code, and as otherwise prescribed by law. A county sheriff:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive board with the advice and

consent of the board of county commissioners, be supervised by the executive board and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers or appointed persons as provided in the resolution or petition. The office of sheriff may not be consolidated with the office of the prosecuting attorney or the office of the clerk of the district court. The resolution or petition shall identify those duties of the county sheriff for which each other officer or appointee shall be responsible.

31-5610. COUNTY CORONER. For purposes of this act the duties of the county coroner shall be as provided in chapter 28, title 31, Idaho Code, and as otherwise prescribed by law. A county coroner:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive board with the advice and consent of the entire board of county commissioners, be supervised by the executive board and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall identify those duties of the office for which each other officer or appointee shall be responsible.

31-5611. COUNTY PROSECUTING ATTORNEY. For purposes of this act, the duties of the county prosecuting attorney shall be as provided in chapter 26, title 31, Idaho Code, and as otherwise prescribed by law. A county prosecuting attorney:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the executive board with the advice and consent of the entire board of county commissioners, be supervised by the executive board, and perform all the duties of the office; or

(4) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers, appointed persons or persons retained on a contractual basis as provided in the resolution or petition. The office of prosecuting attorney may not be consolidated with the office of sheriff or the office of clerk of the district court. The resolution or petition shall identify those duties of the office for which each other officer, appointee or party to the contract shall be responsible.

SECTION 8. That Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and des-

ignated as Chapter 57, Title 31, Idaho Code, and to read as follows:

CHAPTER 57
CONSOLIDATION OF OFFICES AMONG COUNTIES

31-5701. CONSOLIDATION OF OFFICES IN TWO OR MORE COUNTIES WITH OTHER CHARACTERISTICS OF EXISTING FORM IN EACH COUNTY REMAINING UNCHANGED -- OFFICE OF COMMISSIONER MAY NOT BE CONSOLIDATED. The form of government provided in this chapter shall consist of the consolidation of one (1) or more county offices, other than the office of county commissioner, in two (2) or more counties, with all other characteristics of the form of government existing in each participating county to continue unchanged. No petition or resolution proposing a consolidation of offices between or among counties shall propose any other optional form of county government or any other changes in the existing form of government in any of the counties proposing to consolidate offices; except that the question of adopting another optional form of government in a participating county as proposed by a separate petition or resolution may be submitted at the same general election by the governing body of that county, as provided in section 31-5005, Idaho Code. The petition or resolution shall identify each of the counties participating in the consolidation.

31-5702. PETITION OR RESOLUTION FOR CONSOLIDATION TO BE FILED IN EACH PARTICIPATING COUNTY -- QUESTION TO BE SUBMITTED -- ALL COUNTIES MUST APPROVE -- TRANSITION. (1) Upon a resolution or petition meeting the signature requirements of section 31-5004(1)(b), Idaho Code, filed with the governing body of each participating county, the governing body of each participating county shall submit to its electors at the same general election the question of whether the duties and responsibilities of one (1) or more county offices shall be consolidated between two (2) or more counties as proposed in the resolution or petition with all other characteristics of the county government of each participating county to continue unchanged. The petition or resolution submitted to the electors of each county shall meet the requirements of section 31-5004, Idaho Code, and shall contain the same proposals with respect to the office or offices to be consolidated. The consolidation shall be approved upon a majority vote of the electors in each county, voting separately. If the consolidation is not approved in all participating counties, the measure shall be deemed to have failed in all participating counties.

(2) The petition or resolution for consolidation filed in each of the participating counties shall provide, with respect to each office proposed to be consolidated, as follows:

(a) For the election of one (1) officer to perform the duties and responsibilities of the office on behalf of all the participating counties for a term not to exceed four (4) years, citing the effect of the consolidation upon any incumbents in office in the participating counties as authorized in section 31-5007, Idaho Code. Any residency requirements of the office shall be waived in the event of a consolidation under the provisions of this chapter; or

(b) For the appointment of one (1) or more parties, or for the

execution of one (1) or more contracts with one (1) or more service providers to perform the duties and responsibilities of the office being consolidated on behalf of all of the participating counties. The resolution or petition filed in each participating county shall indicate by whom and the manner in which any appointee is to be appointed and by whom and the manner in which any service provider is to be selected. Any person proposed for appointment and any contract with a service provider must be approved by the governing body of each participating county.

(3) The petition or resolution submitted to the electors shall provide for the orderly transition to the proposed consolidation of offices.

31-5703. COUNTIES REMAIN INDIVIDUALLY RESPONSIBLE. The consolidation of offices shall not relieve a county from the performance of all the duties and responsibilities required to be performed by the county or any officer of the county under the constitution and laws of the state of Idaho or the United States.

SECTION 9. That Section 31-717, Idaho Code, be, and the same is hereby amended to read as follows:

31-717. COUNTY INITIATIVE AND REFERENDUM -- SIGNATURES REQUIRED -- PRINTING OF PETITION -- REVIEW OF MEASURES -- TIME LIMITS. The board of county commissioners of each county shall provide by ordinance for direct legislation by the people through the initiative and referendum. For the purposes of this section, "initiative" means the right of the people at an election to adopt, amend or repeal legislation. "Referendum" means the right of the people at an election to approve or reject legislation adopted by the board of county commissioners. Requirements of the initiative and referendum ordinance adopted shall be as follows:

(1) Petitioners for initiative or referendum shall be equal to twenty per cent (20%) of the qualified electors voting in the county in the last general election;

(2) Initial petitions for referendum containing not fewer than twenty (20) signatures of qualified electors of the county shall be filed not less than thirty (30) days following the final publication of the ordinance to be subject to referendum as provided in section 31-715, Idaho Code. After the initial filing of the petition the provisions of subsection (6) of this section shall apply. Completed petitions, with the requisite number of signatures for referendum, shall be filed with the county clerk not more than ~~ninety~~ one hundred eighty (~~9~~180) days after the date of approval of the form in subsection (6)(d) of this section;

(3) Completed petitions, with the requisite number of signatures for initiative, shall be filed with the county clerk not more than ~~ninety~~ one hundred eighty (~~9~~180) days after the date of approval of the form in subsection (6)(d) of this section;

(4) All requirements for gathering signatures shall be met by or within the time frames imposed by subsections (2) and (3) of this section;

(5) A special election for initiative or referendum shall be pro-

vided as prescribed in section 34-106, Idaho Code;

(6) The following requirements for signature, verification of valid petitions, printing of petition, review of measures, and time limits, except as expressly modified herein, shall be as nearly as practicable as provided in sections 34-1801 through 34-1811 and 34-1813 through 34-1822, Idaho Code:

(a) Before beginning to circulate any petition for an initiative or for a referendum on any ordinance passed by the board of county commissioners, the person or persons or organization or organizations under whose authority the measure is to be initiated or referred shall send or deliver to the county clerk a copy of such petition duly signed by at least twenty (20) qualified electors of the county which shall be filed by said officer in his office, and who shall immediately transmit a copy of the petition to the prosecuting attorney for the issuance of the certificate of review as provided in section 34-1809, Idaho Code.

(b) After receiving a copy of the petition from the county clerk, the county prosecuting attorney may confer with the petitioner and shall, within ten (10) working days from receipt thereof, review the proposal for matters of substantive import and shall recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate. The recommendations of the prosecuting attorney shall be advisory only and the petitioner may accept or reject them in whole or in part. The prosecuting attorney shall issue a certificate of review to the county clerk certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been communicated to the petitioner, and such certificate shall be issued whether or not the petitioner accepts such recommendations. Within fifteen (15) working days after the issuance of a certificate of review, the petitioner, if he desires to proceed with his sponsorship, shall file the ballot measure with the county clerk for assignment of a ballot title. Other requirements shall be as provided in section 34-1809, Idaho Code.

(c) Preparation of the ballot title by the prosecuting attorney shall be as prescribed in section 34-1809, Idaho Code.

(d) After the form of the initiative or referendum petition has been approved by the county clerk, the petition shall be printed by the person or persons or organization or organizations under whose authority the measure is to be initiated or referred and circulated in the county for the signatures of legal voters.

(e) Verification of petition and signatures shall be as prescribed in section 34-1807, Idaho Code.

(f) Upon final certification of the petition, the county clerk shall order an election to be held pursuant to section 34-106, Idaho Code.

(g) If the county clerk shall refuse to accept and file any petition for the initiative or for the referendum with the requisite number of signatures of qualified electors thereto attached, any citizen may apply, within ten (10) working days after such refusal, to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the county clerk shall then file it,

with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office. On a showing that any petition filed is not legally sufficient, the court may enjoin the county clerk and all other officers from certifying or printing on the official ballot for the ensuing election the ballot title and numbers of such measure. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the supreme court within ten (10) working days after a decision is rendered.

(h) It shall be unlawful for any person to make any false affidavit concerning any petition in this section or to leave a petition unattended for the purpose of gathering signatures. Any person violating any of the provisions of this subsection shall be guilty of a misdemeanor.

(7) Any measure so initiated by or referred to the people shall take effect and become a law when it is approved by a majority of the votes cast thereon, and not otherwise.

SECTION 10. That Section 31-818, Idaho Code, be, and the same is hereby amended to read as follows:

31-818. AUTHORITY TO APPOINT ADMINISTRATIVE ASSISTANTS AND STAFF -- COUNTY COMMISSIONER AS ADMINISTRATOR MAY BE APPOINTED. (1) The board of county commissioners shall be empowered to employ assistants, including administrative assistants, and clerical staff to aid them in fulfilling their duties.

(2) The board may appoint a member of the board of county commissioners to act as administrator. A county commissioner appointed as administrator under this subsection shall have and exercise only those administrative powers and duties as may be and are assigned by the board of county commissioners by ordinance or resolution. The provisions of chapters 50 through 57, title 31, Idaho Code, shall not apply to the appointment of a county commissioner as administrator under this subsection.

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

Approved March 15, 1996.

CHAPTER 284
(S.B. No. 1575)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 1997; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; AND LIMITING THE NUMBER OF APPROVED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Administration not exceed the following amount for the period July 1, 1996, through June 30, 1997:

FOR:	
Personnel Costs	$ 7,114,800
Operating Expenditures	6,456,900
Capital Outlay	1,135,900
Trustee and Benefit Payments	7,400,400
TOTAL	$22,108,000
FROM:	
General Fund	$ 3,985,700
Indirect Cost Recovery Fund	430,900
Administration and Accounting Services Fund	9,092,600
Employee Assistance Program Fund	41,900
Permanent Building Fund	6,671,700
Federal Surplus Property Revolving Fund	436,900
Employee Group Insurance Fund	341,800
Retained Risk Fund	414,000
Administrative Code Fund	520,500
Industrial Special Indemnity Fund	172,000
TOTAL	$22,108,000

SECTION 2. There is hereby appropriated to the Department of Administration the following amounts, to be expended for the designated programs according to the designated standard classification from the listed funds for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Fund	$ 134,500	$ 66,300			$ 200,800
Indirect Cost Recovery Fund	314,100	116,800			430,900
Employee Assistance Program Fund	17,100	24,800			41,900
Employee Group Insurance Fund	225,600	116,200			341,800
Retained Risk Fund	300,700	113,300			414,000
Industrial Special Indemnity Fund	103,200	62,700	$ 6,100		172,000
TOTAL	$1,095,200	$ 500,100	$ 6,100		$ 1,601,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. GENERAL SERVICES:					
FROM:					
General Fund	$ 637,200	$ 521,400	$ 147,600		$ 1,306,200
Administration and Accounting Services Fund	1,460,000	749,300	474,100		2,683,400
TOTAL	$2,097,200	$1,270,700	$ 621,700		$ 3,989,600
III. PUBLIC WORKS:					
FROM:					
General Fund				$1,880,400	$ 1,880,400
Permanent Building Fund	$1,107,200	$ 352,300	$ 38,200	5,174,000	6,671,700
Administration and Accounting Services Fund	1,176,900	2,686,000	14,500	346,000	4,223,400
TOTAL	$2,284,100	$3,038,300	$ 52,700	$7,400,400	$12,775,500
IV. PURCHASING:					
FROM:					
General Fund	$ 400,200	$ 145,100			$ 545,300
Federal Surplus Property Revolving Fund	197,700	239,200			436,900
Administration and Accounting Services Fund	553,800	930,900	$ 444,900		1,929,600
TOTAL	$1,151,700	$1,315,200	$ 444,900		$ 2,911,800
V. OFFICE OF ADMINISTRATIVE RULES COORDINATOR:					
FROM:					
Administrative Code Fund	$ 249,400	$ 260,600	$ 10,500		$ 520,500
VI. INFORMATION TECHNOLOGY RESOURCE MANAGEMENT COUNCIL:					
FROM:					
General Fund	$ 53,000				$ 53,000
Administration and Accounting Services Fund	184,200	$ 72,000			256,200
TOTAL	$ 237,200	$ 72,000			$ 309,200
GRAND TOTAL	$7,114,800	$6,456,900	$1,135,900	$7,400,400	$22,108,000

SECTION 3. There is hereby reappropriated to the Department of Administration for the Office of Administrative Rules Coordinator Program, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any General Fund appropriation made

to the State Controller for the Administrative Rules Coordinator Program for the period July 1, 1995, through July 1, 1996, to be used for nonrecurring expenditures only for the period July 1, 1996, through June 30, 1997.

SECTION 4. The reappropriation granted in Section 3 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1996, is zero, the General Fund 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, 1996, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the General Fund reappropriation in Section 3 of this act shall be in the proportion that the General Fund reappropriation for the Administrative Rules Coordinator Program bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 5. In accordance with Section 67-3519, Idaho Code, the Department of Administration is authorized no more than one hundred sixty-nine and sixty one hundredths (169.60) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, 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 18, 1996.

CHAPTER 285
(S.B. No. 1579)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 1997; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. It is legislative intent that the expenditures for the Division of Building Safety in the Department of Self-Governing Agencies not exceed the following amount for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Electrical Fund	$1,911,500	$ 562,100	$102,800	$2,576,400
Building Fund	713,100	149,100	40,700	902,900
Plumbing Fund	1,056,300	340,000	40,100	1,436,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Manufactured Housing Fund	42,800	15,400		58,200
Federal Grant Fund	97,000	39,200		136,200
Miscellaneous Revenue Fund	574,200	179,600	30,700	784,500
TOTAL	$4,394,900	$1,285,400	$214,300	$5,894,600

SECTION 2. There is hereby appropriated to the Division of Building Safety in the Department of Self-Governing Agencies the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
Electrical Fund	$ 168,900	$ 24,600	$ 2,000	$ 195,500
Building Fund	69,000	10,100	800	79,900
Plumbing Fund	88,200	12,800	1,100	102,100
Miscellaneous Revenue Fund	57,600	8,400	700	66,700
TOTAL	$ 383,700	$ 55,900	$ 4,600	$ 444,200
B. BUILDING SAFETY:				
FROM:				
Electrical Fund	$1,742,600	$ 537,500	$100,800	$2,380,900
Building Fund	644,100	139,000	39,900	823,000
Plumbing Fund	968,100	327,200	39,000	1,334,300
Manufactured Housing Fund	42,800	15,400		58,200
Federal Grant Fund	97,000	39,200		136,200
Miscellaneous Revenue Fund	516,600	171,200	30,000	717,800
TOTAL	$4,011,200	$1,229,500	$209,700	$5,450,400
GRAND TOTAL	$4,394,900	$1,285,400	$214,300	$5,894,600

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Division of Building Safety in the Department of Self-Governing Agencies is authorized no more than ninety-six (96) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, 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 18, 1996.

CHAPTER 286
(S.B. No. 1578)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 1997.

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

SECTION 1. There is hereby appropriated to the Department of Labor the following amount, to be expended according to designated standard classifications from the listed fund for the period July 1, 1996, through June 30, 1997:

FOR:	
Personnel Costs	$260,700
Operating Expenditures	151,900
TOTAL	$412,600
FROM:	
General Fund	$412,600

Approved March 18, 1996.

CHAPTER 287
(S.B. No. 1577)

AN ACT

APPROPRIATING MONEYS TO THE STATE INSURANCE FUND IN ADDITION TO THE APPROPRIATION PROVIDED IN SECTION 1, HOUSE BILL NO. 834, SECOND REGULAR SESSION, FIFTY-THIRD IDAHO LEGISLATURE; AUTHORIZING AN INCREASE IN THE LIMIT ON THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE STATE INSURANCE FUND; APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION IN ADDITION TO THE APPROPRIATION PROVIDED IN SECTION 1, HOUSE BILL NO. 861, SECOND REGULAR SESSION, FIFTY-THIRD IDAHO LEGISLATURE; AND AUTHORIZING AN INCREASE IN THE LIMIT ON THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE INDUSTRIAL COMMISSION.

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

SECTION 1. In addition to the appropriation made in Section 1, House Bill No. 834, Second Regular Session, Fifty-third Idaho Legislature, there is hereby appropriated to the State Insurance Fund, the following amount, to be expended for the designated program according to the designated standard classifications from the listed fund for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. WORKER'S COMPENSATION:				
FROM:				
State Insurance Fund	$440,800	$62,500	$57,300	$560,600

SECTION 2. In addition to the full-time equivalent positions authorized in Section 2, House Bill No. 834, Second Regular Session, Fifty-third Idaho Legislature, the State Insurance Fund is authorized an additional ten (10) full-time equivalent positions and no more than one hundred ninety-nine (199) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, unless specifically authorized by the Governor.

SECTION 3. In addition to the appropriation made in Section 1, House Bill No. 861, Second Regular Session, Fifty-third Idaho Legislature, there is hereby appropriated to the Industrial Commission, the following amount, to be expended for the designated programs according to the designated standard classifications from the listed fund for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. COMPENSATION:				
FROM:				
Industrial Administration Fund	$17,600	$3,300	$37,000	$ 57,900
B. REHABILITATION:				
Industrial Administration Fund	$18,400	$3,700	$51,200	$ 73,300
GRAND TOTAL	$36,000	$7,000	$88,200	$131,200

SECTION 4. In addition to the full-time equivalent positions authorized in Section 2, House Bill No. 861, Second Regular Session, Fifty-third Idaho Legislature, the Industrial Commission is authorized an additional six (6) full-time equivalent positions and no more than one hundred thirty (130) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, unless specifically authorized by the Governor.

Approved March 18, 1996.

CHAPTER 288
(S.B. No. 1576)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 1997; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND

EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO ACTIVITIES OF THE COMMISSION ON THE ARTS.

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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Fund	$ 363,100	$ 289,100		$ 50,000	$ 702,200
B. COMMERCIAL AFFAIRS:					
FROM:					
Commercial Affairs Fund	$ 913,200	$ 356,000	$ 90,500		$1,359,700
C. COMMISSION ON UNIFORM LAWS:					
FROM:					
General Fund		$ 18,600			$ 18,600
D. IDAHO COMMISSION ON THE ARTS:					
FROM:					
General Fund	$ 259,900	$ 206,000	$ 22,800	$319,800	$ 808,500
Federal Grant Fund	248,600	215,000		330,200	793,800
Miscellaneous Revenue Fund		106,400		15,800	122,200
TOTAL	$ 508,500	$ 527,400	$ 22,800	$665,800	$1,724,500
GRAND TOTAL	$1,784,800	$1,191,100	$113,300	$715,800	$3,805,000

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-four (44) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. It is legislative intent that the Commission on the Arts establish criteria, guidelines and restrictions on the use of all grants awarded by the Commission, including FastFund and Sudden Oppor-

tunity Grants. It is also legislative intent that an appropriate accounting method to account for the travel expenditures funded within the Commission on the Arts be implemented. The Director of the Commission on the Arts shall present the plan implementing this legislative intent to the Joint Finance-Appropriations Committee at their next scheduled interim committee meeting.

Approved March 18, 1996.

CHAPTER 289
(S.B. No. 1573)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 1997; LIMITING THE NUMBER OF FULL-TIME POSITIONS; AND TRANSFERRING MONEYS TO THE GENERAL FUND.

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

SECTION 1. There is hereby appropriated to the Public Utilities Commission the following amount, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
General Fund	$ 270,300			$ 270,300
State Regulatory Fund	619,700	$ 178,800	$233,900	1,032,400
TOTAL	$ 890,000	$ 178,800	$233,900	$1,302,700
B. UTILITIES REGULATION:				
FROM:				
State Regulatory Fund	$1,423,900	$ 767,700	$ 20,200	$2,211,800
C. REGULATED CARRIERS:				
FROM:				
State Regulatory Fund	$ 389,200	$ 225,300	$ 30,600	$ 645,100
GRAND TOTAL	$2,703,100	$1,171,800	$284,700	$4,159,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Public Utilities Commission is authorized no more than fifty-five (55) full-time equivalent positions at any point during the period July 1, 1996 through June 30, 1997, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. Notwithstanding any other provisions of law, there is hereby appropriated from the State Regulatory Fund and transferred to the General Fund an amount equal to the General Fund expenditures of the Public Utilities Commission for the period July 1, 1996, through June 30, 1997.

Approved March 18, 1996.

CHAPTER 290
(S.B. No. 1572)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 1997; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR THE RACING COMMISSION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 285, LAWS OF 1995; PROVIDING DIRECTION FOR THE APPROPRIATION MADE IN SECTION 4; AND DECLARING AN EMERGENCY FOR SECTIONS 4 AND 5 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the Department of Law Enforcement the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. CENTRAL ADMINISTRATION:					
FROM:					
General Fund	$ 1,192,500	$ 452,400	$ 4,000		$ 1,648,900
Indirect Cost Recovery Fund	51,300	4,900			56,200
TOTAL	$ 1,243,800	$ 457,300	$ 4,000		$ 1,705,100
B. POLICE SERVICES:					
FROM:					
General Fund	$ 5,239,400	$1,984,700	$ 200,000		$ 7,424,100
Idaho Law Enforcement Telecommunications Fund	177,200	262,800			440,000
Drug Donation Fund		260,000			260,000
Federal Grant Fund	117,700	113,300	125,300		356,300
Miscellaneous Revenue Fund	326,400	547,300	40,000		913,700
TOTAL	$ 5,860,700	$3,168,100	$ 365,300		$ 9,394,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. IDAHO STATE POLICE:					
FROM:					
General Fund	$ 1,790,800	$ 117,700	$1,079,000		$ 2,987,500
Idaho Law Enforcement Fund	9,848,300	2,518,000	409,400		12,775,700
Hazardous Materials/ Waste Enforcement Fund	167,500	56,100		$ 66,800	290,400
Federal Grant Fund	929,300	1,238,800	450,000	3,085,000	5,703,100
Miscellaneous Revenue Fund	56,000	12,800			68,800
TOTAL	$12,791,900	$3,943,400	$1,938,400	$3,151,800	$21,825,500
D. ALCOHOL BEVERAGE CONTROL:					
FROM:					
General Fund	$ 680,800	$ 118,100	$ 24,000		$ 822,900
Miscellaneous Revenue Fund		1,000			1,000
TOTAL	$ 680,800	$ 119,100	$ 24,000		$ 823,900
E. POST ACADEMY:					
FROM:					
Peace Officers Fund	$ 453,200	$ 586,600	$ 66,000	$ 68,200	$ 1,174,000
Federal Grant Fund	56,500	73,600			130,100
Miscellaneous Revenue Fund		5,000			5,000
TOTAL	$ 509,700	$ 665,200	$ 66,000	$ 68,200	$ 1,309,100
F. BRAND INSPECTION:					
FROM:					
State Brand Board Fund	$ 1,708,900	$ 246,600	$ 75,000		$ 2,030,500
G. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Fund	$ 331,300	$ 497,300	$ 1,700		$ 830,300
Pari-mutuel Distributions Fund				$ 367,500	367,500
TOTAL	$ 331,300	$ 497,300	$ 1,700	$ 367,500	$ 1,197,800
GRAND TOTAL	$23,127,100	$9,097,000	$2,474,400	$3,587,500	$38,286,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Law Enforcement is authorized no more than four hundred

eighty-six and eight-tenths (486.8) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. It is legislative intent that all state funds appropriated for the Idaho State Police be used for traffic enforcement, accident investigation, 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 addition to the appropriation made in Section 2, Chapter 285, Laws of 1995, there is hereby appropriated to the Department of Law Enforcement for the Racing Commission the following amount to be expended according to the designated standard classification from the listed fund for the period July 1, 1995, through June 30, 1996:

FOR:	
Trustee and Benefit Payments	$350,000
FROM:	
Idaho State Racing Commission Fund	$350,000

SECTION 5. The appropriation contained in Section 4 of this act for the Racing Commission shall be distributed as follows: $175,000 to the owner/breeder award account to be distributed according to Section 54-2514(2)(c), Idaho Code; and $175,000 to the licensed live horse racing tracks in Idaho to be used solely for live race purses, of which $50,000 shall be distributed equally among the licensed tracks and $125,000 shall be distributed to the licensed tracks based on the number of race days run in 1995.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 4 and 5 of this act shall be in full force and effect on and after its passage and approval.

Approved March 18, 1996.

CHAPTER 291
(S.B. No. 1570)

AN ACT
APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 1997; 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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. MILITARY MANAGEMENT:					
FROM:					
General Fund	$1,009,500	$ 666,400	$ 36,800		$ 1,712,700
Federal Grant Fund		3,663,900			3,663,900
Miscellaneous Revenue Fund	15,700	20,600			36,300
TOTAL	$1,025,200	$4,350,900	$ 36,800		$ 5,412,900
B. FEDERAL AND STATE CONTRACTS:					
FROM:					
General Fund	$ 346,800	$ 190,100	$ 2,500		$ 539,400
Federal Grant Fund	3,827,500	3,746,800	18,000		7,592,300
TOTAL	$4,174,300	$3,936,900	$ 20,500		$ 8,131,700
C. DISASTER SERVICES:					
FROM:					
General Fund	$ 370,200	$ 84,900	$ 62,600		$ 517,700
Federal Grant Fund	689,300	203,600	36,800	$700,000	1,629,700
Indirect Cost Recovery Fund	53,600	8,300			61,900
TOTAL	$1,113,100	$ 296,800	$ 99,400	$700,000	$ 2,209,300
GRAND TOTAL	$6,312,600	$8,584,600	$156,700	$700,000	$15,753,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Military Division is authorized no more than one hundred forty-eight and eight-tenths (148.8) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 1996.

CHAPTER 292
(S.B. No. 1569)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION ON WOMEN'S PROGRAMS FOR FISCAL YEAR 1997; 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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$25,500	$12,600	$38,100
Miscellaneous Revenue Fund		6,500	6,500
TOTAL	$25,500	$19,100	$44,600

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, 1996, through June 30, 1997, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 1996.

CHAPTER 293
(S.B. No. 1566)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 1997; 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 classifications from the listed funds for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. HISTORICAL PRESERVATION AND EDUCATION:					
FROM:					
General Fund	$ 935,900	$294,200	$85,500	$ 2,600	$1,318,200
Federal Grant Fund	457,300	90,300		40,800	588,400
Miscellaneous Revenue Fund	63,000	121,400		4,500	188,900
TOTAL	$1,456,200	$505,900	$85,500	$47,900	$2,095,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. HISTORIC SITES MAINTENANCE AND INTERPRETATION:					
FROM:					
General Fund	$ 66,100	$ 38,200	$ 9,500		$ 113,800
Miscellaneous Revenue Fund	106,200	92,400	800		199,400
TOTAL	$ 172,300	$130,600	$10,300		$ 313,200
GRAND TOTAL	$1,628,500	$636,500	$95,800	$47,900	$2,408,700

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, 1996, through June 30, 1997, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 1996.

CHAPTER 294
(S.B. No. 1564)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 1997; 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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Fund	$ 356,900	$ 208,200	$ 12,000	$ 15,000	$ 592,100
Agriculture in the Classroom Fund		20,100			20,100
Administration and Accounting Services Fund	311,200	67,200			378,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Facilities Maintenance Fund	44,000	177,000			221,000
TOTAL	$ 712,100	$ 472,500	$ 12,000	$ 15,000	$ 1,211,600
B. ANIMAL INDUSTRIES:					
FROM:					
General Fund	$ 647,800	$ 39,200	$ 26,700		$ 713,700
Agricultural Fees - Livestock Disease Control Fund	448,000	209,600	42,100		699,700
Agricultural Fees - Dairy Inspection Fund	462,000	115,200	28,900		606,100
Agricultural Fees - Egg Inspection Fund	119,000	23,900			142,900
Agricultural Fees - Commercial Fisheries Fund	6,000	4,100			10,100
Seminars and Publications Fund		142,200			142,200
TOTAL	$ 1,682,800	$ 534,200	$ 97,700		$ 2,314,700
C. AGRICULTURAL TECHNOLOGY:					
FROM:					
General Fund	$ 40,100	$ 6,000			$ 46,100
Water Pollution Control Fund	275,300	539,000	$ 59,700		874,000
Agricultural Fees - Commercial Feed and Fertilizer Fund	151,000	51,400	22,800		225,200
Agricultural Fees - Pesticides Fund	814,300	362,400	80,200		1,256,900
Federal Grant Fund	381,000	159,600	34,000		574,600
TOTAL	$ 1,661,700	$1,118,400	$196,700		$ 2,976,800
D. PLANT INDUSTRIES:					
FROM:					
General Fund	$ 341,700	$ 118,800	$ 8,100	$125,000	$ 593,600
Agricultural Inspection Fund	882,000	187,300	16,400		1,085,700
Agricultural Fees - Commercial Feed and Fertilizer Fund	178,700	58,900	6,400		244,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Agricultural Fees - Honey Advertising Fund	300	5,800			6,100
Federal Grant Fund	34,600	5,200			39,800
TOTAL	$ 1,437,300	$ 376,000	$ 30,900	$125,000	$ 1,969,200
E. AGRICULTURAL INSPECTIONS:					
FROM:					
General Fund	$ 767,900	$ 201,500	$ 33,000		$ 1,002,400
Agricultural Inspection Fund	174,300	52,900		$ 3,600	230,800
Agricultural Fees - Organic Food Products Fund	40,200	19,700			59,900
Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund	8,403,400	853,600	166,600	294,700	9,718,300
TOTAL	$ 9,385,800	$1,127,700	$199,600	$298,300	$11,011,400
F. AGRICULTURAL MARKETING AND DEVELOPMENT:					
FROM:					
General Fund	$ 226,500	$ 123,000	$ 7,000		$ 356,500
Agricultural Inspection Fund	31,000	100			31,100
Agricultural Loans Fund	14,600	15,000		$ 5,100	34,700
Federal Grant Fund				40,000	40,000
Seminars and Publications Fund		210,300			210,300
USDA Publications Fund		61,100			61,100
TOTAL	$ 272,100	$ 409,500	$ 7,000	$ 45,100	$ 733,700
G. ANIMAL DAMAGE CONTROL:					
FROM:					
General Fund				$105,500	$ 105,500
Animal Damage Control Fund				100,000	100,000
Agricultural Fees - Sheep Industry Regulation Fund		200		100,000	100,200
TOTAL		$ 200		$305,500	$ 305,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
H. SHEEP COMMISSION:					
FROM:					
General Fund	$ 32,200	$ 5,800			$ 38,000
Agricultural Fees - Sheep Industry Regulation Fund	53,600	28,200	$ 1,000		82,800
TOTAL	$ 85,800	$ 34,000	$ 1,000		$ 120,800
GRAND TOTAL	$15,237,600	$4,072,500	$ 544,900	$788,900	$20,643,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Agriculture is authorized no more than one hundred seventy and thirty-one one hundredths (170.31) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 1996.

CHAPTER 295
(S.B. No. 1563)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 1997; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Juvenile Corrections the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. Administration:					
FROM:					
General Fund	$ 538,600	$ 339,700	$169,500		$ 1,047,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. FIELD SERVICES:					
FROM:					
General Fund	$ 465,000	$ 81,100		$ 2,700,000	$ 3,246,100
C. INSTITUTIONS:					
FROM:					
General Fund	$7,605,400	$ 903,000	$251,000	$ 4,694,400	$13,453,800
Juvenile Corrections Fund				140,000	140,000
State Juvenile Corrections Center Fund		644,700		129,500	774,200
Federal Grant Fund	77,100	182,000		1,689,900	1,949,000
Miscellaneous Revenue Fund	230,200			40,000	270,200
TOTAL	$7,912,700	$1,729,700	$251,000	$ 6,693,800	$16,587,200
D. JUVENILE JUSTICE COMMISSION:					
FROM:					
General Fund	$ 69,100	$ 10,600			$ 79,700
Federal Grant Fund	56,300	125,700		$ 803,400	985,400
Miscellaneous Revenue Fund				150,000	150,000
TOTAL	$ 125,400	$ 136,300		$ 953,400	$ 1,215,100
GRAND TOTAL	$9,041,700	$2,286,800	$420,500	$10,347,200	$22,096,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than two hundred forty-seven and five-tenths (247.5) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 1996.

CHAPTER 296
(S.B. No. 1556)

AN ACT

RELATING TO THE COMPREHENSIVE STATE WATER PLAN; RATIFYING AND APPROVING THE COMPREHENSIVE STATE WATER PLAN FOR THE NORTH FORK CLEARWA-

TER BASIN AS ADOPTED BY THE IDAHO WATER RESOURCE BOARD ON JANUARY 12, 1996; AND DECLARING AN EMERGENCY.

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

SECTION 1. That pursuant to Section 42-1734B(6), Idaho Code, the Comprehensive State Water Plan for the North Fork Clearwater Basin, adopted by resolution of the Idaho Water Resource Board on January 12, 1996, be, and the same is hereby ratified and approved. In accordance with Section 42-1734A, Idaho Code, the basin plan includes protected river reach designations summarized as follows:

(1) Cayuse Creek, headwaters to mouth, as a natural river;

(2) Isabella Creek, headwaters to Black Creek, as a natural river;

(3) Kelly Creek, headwaters to Moose Creek, as a natural river;

(4) Little North Fork Clearwater River, Meadow Creek to Cedar Creek, as a natural river;

(5) North Fork Clearwater River, headwaters to Wrangle Creek, as a natural river;

(6) North Fork Clearwater River, Isabella Creek to Dworshak Reservoir backwaters, as a natural river;

(7) Weitas Creek, headwaters to mouth, as a natural river;

(8) Beaver Creek, Charlie Creek to mouth, as a recreational river;

(9) Elk Creek, headwaters to Deep Creek, as a recreational river;

(10) Isabella Creek, Black Creek to mouth, as a recreational river;

(11) Kelly Creek, Moose Creek to mouth, as a recreational river;

(12) Little North Fork Clearwater River, Cedar Creek to Dworshak Reservoir backwaters, as a recreational river;

(13) Little North Fork Clearwater River, headwaters to Meadow Creek, as a recreational river;

(14) North Fork Clearwater River, Wrangle Creek to Isabella Creek, as a recreational river; and

(15) Reeds Creek, Calhoun Creek to mouth, as a recreational river.

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 18, 1996.

CHAPTER 297
(S.B. No. 1535)

AN ACT

RELATING TO WATER MUNICIPAL RIGHTS; AMENDING SECTION 42-202, IDAHO CODE, TO PROVIDE ADDITIONAL FILING REQUIREMENTS FOR APPLICATIONS FOR PERMITS TO APPROPRIATE WATER FOR MUNICIPAL PURPOSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 2, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-202B, IDAHO CODE, TO

DEFINE TERMS RELATED TO MUNICIPAL USE; AMENDING SECTION 42-217, IDAHO CODE, TO REQUIRE THAT AN APPLICANT FOR A LICENSE FOR MUNICIPAL PURPOSES SHALL PROVIDE ADDITIONAL INFORMATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-219, IDAHO CODE, TO PROVIDE THAT LICENSES ISSUED FOR MUNICIPAL PURPOSES MAY RECOGNIZE THE SYSTEM CAPACITY AND LIST THE SERVICE AREA AS THE AUTHORIZED PLACE OF USE WHICH MAY INCLUDE AREAS OUTSIDE THE BOUNDARIES OF THE MUNICIPALITY, TO PROVIDE CONDITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-222, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS TO CHANGE THE NATURE OF USE OF A WATER RIGHT TO MUNICIPAL PURPOSES AND TO DESCRIBE CIRCUMSTANCES UNDER WHICH FORFEITURE OF A MUNICIPAL WATER RIGHT MAY OCCUR.

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

SECTION 1. That Section 42-202, Idaho Code, be, and the same is hereby amended to read as follows:

42-202. APPLICATION TO APPROPRIATE WATER -- CONTENTS -- FILING FEES -- DISPOSITION OF FEES -- RECORD OF RECEIPTS. (1) For the purpose of regulating the use of the public waters and of establishing by direct means the priority right to such use, any person, association or corporation hereafter intending to acquire the right to the beneficial use of the waters of any natural streams, springs or seepage waters, lakes or ground water, or other public waters in the state of Idaho, shall, before commencing of the construction, enlargement or extension of the ditch, canal, well, or other distributing works, or performing any work in connection with said construction or proposed appropriation or the diversion of any waters into a natural channel, make an application to the department of water resources for a permit to make such appropriation. Such application must set forth:

~~1.~~(a) The name and post-office address of the applicant.

~~2.~~(b) The source of the water supply.

~~3.~~(c) The nature of the proposed use or uses and the period of the year during which water is to be used for such use or uses.

~~4.~~(d) The location of the point of diversion and description of the proposed ditch, channel, well or other work and the amount of water to be diverted and used.

~~5.~~(e) The time required for the completion of construction of such works and application of the water to the proposed use.

(2) An application proposing an appropriation of water by a municipal provider for reasonably anticipated future needs shall be accompanied by sufficient information and documentation to establish that the applicant qualifies as a municipal provider and that the reasonably anticipated future needs, the service area and the planning horizon are consistent with the definitions and requirements specified in this chapter. The service area need not be described by legal description nor by description of every intended use in detail, but the area must be described with sufficient information to identify the general location where the water under the water right is to be used and the types and quantity of uses that generally will be made.

(3) Whenever it is desired to appropriate and store flood or winterflow waters, the applicant shall specify in acre feet the quan-

tity of such flood or winterflow waters which he intends to store, but for irrigation purposes he shall not claim more than five (5) acre feet of stored water per acre of land to be irrigated, nor, in the event of the filing of an application claiming both normal flow and flood water and winterflow water, shall the total amount of water claimed exceed the equivalent of a continuous flow during the irrigation season of more than one (1) cubic foot per second for each fifty (50) acres of land to be irrigated, or more than five (5) acre feet of stored water for each acre of land to be irrigated.

(4) The application shall be accompanied by a plan and map of the proposed works for the diversion and application of the water to a beneficial use, showing the character, location and dimensions of the proposed reservoirs, dams, canals, ditches, pipelines, wells and all other works proposed to be used by them in the diversion of the water, and the area and location of the lands proposed to be irrigated, or location of place of other use.

(5) If the application involves more than twenty-five (25) cubic feet per second ~~feet~~ of water or the development of more than five hundred (500) theoretical ~~horse-power~~ horsepower, or impoundment of water in a reservoir with an active storage capacity in excess of ten thousand (10,000) acre feet, the applicant may be required by the director of the department of water resources to furnish a statement of the financial resources of the corporation, association, firm or person making the application, and the means by which the funds necessary to construct the proposed works are to be provided, and the estimated cost of construction; and if such application is made by a corporation, the amount of its capital stock, how much thereof has been actually paid in, and the names and places of residence of its directors; and if for the generation of power or any other purpose than irrigation or domestic use, the purpose for which it is proposed to be used, the nature, location, character, capacity and estimated cost of the works, and whether the water used is to be and will be returned to the stream, and if so, at what point on the stream.

(6) In case the proposed right of use is for agricultural purposes, the application shall give the legal subdivisions of the land proposed to be irrigated, with the total acreage to be reclaimed as near as may be; provided, that no one shall be authorized to divert for irrigation purposes more than one (1) cubic foot of water per second of the normal flow for each fifty (50) acres of land to be so irrigated, or more than five (5) acre feet of stored water per annum for each acre of land to be so irrigated, unless it can be shown to the satisfaction of the department of water resources that a greater amount is necessary. Provided further, that the plan of irrigation submitted shall provide for the distribution of water to within not more than one (1) mile of each legal subdivision of the land proposed to be reclaimed by the use of such water; provided also, that in the case of all ditches designed to have a capacity of ten (10) cubic feet per second or less, such map showing the location of such ditch, and the place of use of such water, or the location of the lands to be irrigated, may be upon blanks furnished by the department of water resources.

(7) No application shall be accepted and filed by the department of water resources until the applicant shall have deposited with the

department a filing fee as in this ~~act~~ chapter provided.

(8) All moneys received by the department of water resources under the provisions of this chapter shall be deposited with the state treasurer, and such sums as may be necessary shall be available for the payment of the expenses of the department of water resources incurred in carrying out the provisions of this chapter.

(9) Such expense shall be paid by the state controller in the manner provided by law, upon vouchers duly approved by the state board of examiners, for the work performed under the direction of the department of water resources. The department of water resources shall keep a record of all filing fees received in connection with applications for permits to appropriate public waters.

(10) Provided further, that rights initiated prior to the enactment of this amendment, so far as it pertains to flood and winterflow waters, shall not be affected thereby.

(11) Provided further, that water rights held by municipal providers prior to July 1, 1996, shall not be limited thereby.

SECTION 2. That Chapter 2, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-202B, Idaho Code, and to read as follows:

42-202B. DEFINITIONS. Whenever used in this chapter, the term:

(1) "Municipality" means a city incorporated under section 50-102, Idaho Code, a county, or the state of Idaho acting through a department or institution.

(2) "Municipal provider" means: (a) a municipality that provides water for municipal purposes to its residents and other users within its service area; (b) any corporation or association holding a franchise to supply water for municipal purposes, or a political subdivision of the state of Idaho authorized to supply water for municipal purposes, and which does supply water, for municipal purposes to users within its service area; or (c) a corporation or association which supplies water for municipal purposes through a water system regulated by the state of Idaho as a "public water supply" as described in section 39-103(15), Idaho Code.

(3) "Municipal purposes" refers to water for residential, commercial, industrial, irrigation of parks and open space, and related purposes, excluding use of water from geothermal sources for heating, which a municipal provider is entitled or obligated to supply to all those users within a service area, including those located outside the boundaries of a municipality served by a municipal provider.

(4) "Planning horizon" refers to the length of time that the department determines is reasonable for a municipal provider to hold water rights to meet reasonably anticipated future needs. The length of the planning horizon may vary according to the needs of the particular municipal provider.

(5) "Reasonably anticipated future needs" refers to future uses of water by a municipal provider for municipal purposes within a service area which, on the basis of population and other planning data, are reasonably expected to be required within the planning horizon of each municipality within the service area not inconsistent with com-

prehensive land use plans approved by each municipality. Reasonably anticipated future needs shall not include uses of water within areas overlapped by conflicting comprehensive land use plans.

(6) "Service area" means that area within which a municipal provider is or becomes entitled or obligated to provide water for municipal purposes. For a municipality, the service area shall correspond to its corporate limits, or other recognized boundaries, including changes therein after the permit or license is issued. The service area for a municipality may also include areas outside its corporate limits, or other recognized boundaries, that are within the municipality's established planning area if the constructed delivery system for the area shares a common water distribution system with lands located within the corporate limits. For a municipal provider that is not a municipality, the service area shall correspond to the area that it is authorized or obligated to serve, including changes therein after the permit or license is issued.

SECTION 3. That Section 42-217, Idaho Code, be, and the same is hereby amended to read as follows:

42-217. PROOF OF APPLICATION TO BENEFICIAL USE. On or before the date set for the beneficial use of waters appropriated under the provisions of this chapter, the permit holder shall submit a statement that he has used such water for the beneficial purpose allowed by the permit. The statement shall include:

1. The name and post-office address of the permit holder.
2. The permit number.
3. A description of the extent of the use.
4. In the case of a municipal provider, a revised estimate of the reasonably anticipated future needs, a revised description of the service area, and a revised planning horizon, together with appropriate supporting documentation.
5. The source of the water used.
~~5~~6. Such other information as shall be required by the blank form furnished by the department.

Such written proof as may be required to be submitted by such user shall be upon forms furnished by the department of water resources and shall include fees as provided in subsection K. of section 42-221, Idaho Code, or a field examination report prepared by a certified water right examiner.

Upon receipt of such proof and the fee as required in section 42-221, Idaho Code, by the department of water resources the department shall examine, or cause to be examined:

1. The place where such water is diverted and used, and, if the use is for irrigation, he shall ascertain the area and location of the land irrigated and the nature of all the improvements which have been made as a direct result of such use.
2. The capacities of the ditches or canals or other means by which such water is conducted to such place of use, and the quantity of water which has been beneficially applied for irrigation or other purposes.

The department or the person making such examination under the direction of the department shall prepare and file a report of the

investigation: provided, that whenever irrigation systems cover more than twenty-five thousand (25,000) acres, proof of beneficial use may be made by the persons, company or corporation constructing the irrigation works on behalf of the project, and in such cases, the lands upon which the water has been used need not be described by legal subdivisions, but may be described generally as the lands under the irrigation system, and it shall only be necessary to show in such cases that the quantity of water beneficially applied for ~~i~~irrigation has been applied within the limits of the project.

Holders of permits who have submitted proof of beneficial use but have not had their project examined for beneficial use shall submit the fee required in section 42-221, Idaho Code, within sixty (60) days of notification by the director of the department of water resources that a license examination fee is required. Failure to submit the fee in the time allowed shall be cause for the director to advance the date of priority of the permit one (1) day for each day that the fee is late; provided that if the fee is not fully paid within one (1) year of the time it is due, the director of the department of water resources may consider the proof of beneficial use for the permit to be incomplete and lapse the permit, as provided in section 42-218a, Idaho Code.

SECTION 4. That Section 42-219, Idaho Code, be, and the same is hereby amended to read as follows:

42-219. ISSUANCE OF LICENSE -- PRIORITY. (1) Upon receipt by the department of water resources of all the evidence in relation to such final proof, it shall be the duty of the department to carefully examine the same, and if the department is satisfied that the law has been fully complied with and that the water is being used at the place claimed and for the purpose for which it was originally intended, the department shall issue to such user or users a license confirming such use. Such license shall be issued under the seal of the office of the department of water resources, and shall state the name and post-office address of such user, the purpose for which such water is used, the quantity of water which may be used, which in no case shall be an amount in excess of the amount that has been beneficially applied. A license may be issued to a municipal provider for an amount up to the full capacity of the system constructed or used in accordance with the original permit provided that the director determines that the amount is reasonably necessary to provide for the existing uses and reasonably anticipated future needs within the service area and otherwise satisfies the definitions and requirements specified in this chapter for such use. The director shall condition the license to prohibit any transfer of the place of use outside the service area, as defined in section 42-202B, Idaho Code, or to a new nature of use of amounts held for reasonably anticipated future needs together with such other conditions as the director may deem appropriate.

(2) If such use is for irrigation, such license shall give a description, by legal subdivisions, of the land which is irrigated by such water. If the use is for municipal purposes, the license shall describe the service area and shall state the planning horizon for that portion of the right, if any, to be used for reasonably antici-

pated future needs.

(3) Such license shall bear the date of the application for, and the number of, the permit under which the works from which such water is taken were constructed; the capacity of such works; the date when proof of beneficial use of such water was made, and also the date of the priority of the right confirmed by such license~~,which~~.

(4) The date of priority confirmed by the license shall be the date of the application for the permit for the construction of the works from which ~~such~~ the water is taken, and to which ~~such~~ the right relates, provided there has been no loss of priority under the provisions of this chapter.~~:provided,that w~~Whenever proof of the beneficial application of water shall be offered subsequent to the date stated in the permit, or in any authorized extension thereof, when such beneficial application shall be made, ~~such~~ the proof shall be taken, if received by the department within the sixty (60) days prescribed in the preceding section.~~,and if~~ If the proof taken is satisfactory to the department of water resources, a license shall be issued by the ~~D~~department the same as though ~~such~~ proof had been made before ~~such~~ the date fixed for such beneficial application.~~,but t~~The priority of the right established by ~~such~~ the proof shall not date back to the date of the application for the permit to which ~~such~~ the right would relate under the provisions of this chapter, but shall bear a date which shall be subsequent to the date of ~~such~~ the application, a time equal to the difference between the date set in ~~such~~ the permit, or extension thereof, for such beneficial application of ~~such~~ water and the date of ~~such~~ proof.~~:--provided,however,that upon~~

(5) For irrigation projects where the canals constructed cover an area of twenty-five thousand (25,000) acres or more, or within irrigation districts organized and existing as such under the laws of the state of Idaho, the license issued shall be issued to the persons, association, company or corporation or irrigation district owning the project, and final proof may be made by such owners for the benefit of the entire project. ~~and i~~It shall not be necessary to give a description of the land by legal subdivisions but a general description of the entire area under the canal system shall be sufficient.~~,and--t~~The water diverted and the water right acquired thereby shall relate to the entire project and the diversion of the water for the beneficial use under the project shall be sufficient proof of beneficial use without regard as to whether each and every acre under the project is irrigated or not.

(6) In the event that the department shall find that the applicant has not fully complied with the law and the conditions of permit, it may issue a license for that portion of the use which is in accordance with the permit, or may refuse issuance of a license and void the permit. Notice of such action shall be forwarded to the permit holder by certified mail. The applicant may contest such action by the department pursuant to section 42-1701A(3), Idaho Code.

SECTION 5. That Section 42-222, Idaho Code, be, and the same is hereby amended to read as follows:

42-222. CHANGE IN POINT OF DIVERSION, PLACE OF USE, PERIOD OF USE, OR NATURE OF USE OF WATER UNDER ESTABLISHED RIGHTS -- FORFEITURE

AND EXTENSION -- APPEALS. (1) Any person, entitled to the use of water whether represented by license issued by the department of water resources, by claims to water rights by reason of diversion and application to a beneficial use as filed under the provisions of this chapter, or by decree of the court, who shall desire to change the point of diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of such change. Such application shall be upon forms furnished by the department and shall describe the right licensed, claimed or decreed which is to be changed and the changes which are proposed, and shall be accompanied by the statutory filing fee as in this chapter provided. Upon receipt of such application it shall be the duty of the director of the department of water resources to examine same, obtain any consent required in section 42-108, Idaho Code, and if otherwise proper to provide notice of the proposed change in the same manner as applications under section 42-203A, Idaho Code. Such notice shall advise that anyone who desires to protest the proposed change shall file notice of protests with the department within ten (10) days of the last date of publication. Upon the receipt of any protest, accompanied by the statutory filing fee as provided in section 42-221, Idaho Code, it shall be the duty of the director of the department of water resources to investigate the same and to conduct a hearing thereon. He shall also advise the watermaster of the district in which such water is used of the proposed change and the watermaster shall notify the director of the department of water resources of his recommendation on the application, and the director of the department of water resources shall not finally determine the action on the application for change until he has received from such watermaster his recommendation thereof, which action of the watermaster shall be received and considered as other evidence.

When the nature of use of the water right is to be changed to municipal purposes and some or all of the right will be held by a municipal provider to serve reasonably anticipated future needs, the municipal provider shall provide to the department sufficient information and documentation to establish that the applicant qualifies as a municipal provider and that the reasonably anticipated future needs, the service area and the planning horizon are consistent with the definitions and requirements specified in this chapter. The service area need not be described by legal description nor by description of every intended use in detail, but the area must be described with sufficient information to identify the general location where the water under the water right is to be used and the types and quantity of uses that generally will be made.

When a water right or a portion thereof to be changed is held by a municipal provider for municipal purposes, as defined in section 42-202B, Idaho Code, that portion of the right held for reasonably anticipated future needs at the time of the change shall not be changed to a place of use outside the service area, as defined in section 42-202B, Idaho Code, or to a new nature of use.

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an

enlargement in use of the original right, ~~and~~ the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code~~;except the~~, and the new use is a beneficial use, which in the case of a municipal provider shall be satisfied if the water right is necessary to serve reasonably anticipated future needs as provided in this chapter. The director shall not approve a change in the nature of use from agricultural use where such change would significantly affect the agricultural base of the local area. The transfer of the right to the use of stored water for irrigation purposes shall not constitute an enlargement in use of the original right even though more acres may be irrigated, if no other water rights are injured thereby. A copy of the approved application for change shall be returned to the applicant and he shall be authorized upon receipt thereof to make the change and the original water right shall be presumed to have been amended by reason of such authorized change. In the event the director of the department of water resources determines that a proposed change shall not be approved as provided in this section, he shall deny the same and forward notice of such action to the applicant by certified mail, which decision shall be subject to judicial review as hereafter provided.

(2) All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that all water rights appurtenant to land contracted in a federal cropland set-aside program, shall not be lost and forfeited for nonuse during the contracted period. The five (5) year period of nonuse for forfeiture of a water right shall begin to accrue upon termination of the contract if a period of nonuse did not occur prior to the effective date of the contract or shall continue to accrue if a period of nonuse occurred prior to the effective date of the contract. A water right held by a municipal provider to meet reasonably anticipated future needs shall be deemed to constitute a beneficial use, and such rights shall not be lost or forfeited for nonuse unless the planning horizon specified in the license has expired and the quantity of water authorized for use under the license is no longer needed to meet reasonably anticipated future needs. Upon proper showing before the director of the department of water resources of good and sufficient reason for nonapplication to beneficial use of such water for such term of five (5) years, the director of the department of water resources is hereby authorized to grant an extension of time extending the time for forfeiture of title for nonuse thereof, to such waters for a period of not to exceed five (5) additional years. Application for an extension shall be made before the end of the five (5) year period upon forms to be furnished by the department of water resources and shall fully describe the right on which an extension of time to resume the use is requested and the reasons for such nonuse and shall be accompanied by the statutory filing fee; provided that water rights appurtenant to land contracted in a federal cropland set-aside program are exempt from this requirement. Upon the receipt of such applica-

tion it shall be the duty of the director of the department of water resources to examine the same and to provide notice of the application for an extension in the same manner as applications under section 42-203A, Idaho Code. The notice shall fully describe the right, the extension which is requested and the reason for such nonuse and shall state that any person desiring to object to the requested extension may submit a protest, accompanied by the statutory filing fee as provided in section 42-221, Idaho Code, to the director of the department of water resources within ten (10) days of the last date of publication. Upon receipt of a protest it shall be the duty of the director of the department of water resources to investigate and conduct a hearing thereon as in this chapter provided. The director of the department of water resources shall find from the evidence presented in any hearing, or from information available to the department, the reasons for such nonuse of water and where it appears to the satisfaction of the director of the department of water resources that other rights will not be impaired by granting an extension of time within which to resume the use of the water and good cause appearing for such nonuse, he may grant one (1) extension of five (5) years within which to resume such use. In his approval of the application for an extension of time under this section the director of the department of water resources shall set the date when the use of water is to be resumed. Sixty (60) days before such date the director of the department of water resources shall forward to the applicant at his address of record a notice by certified mail setting forth the date on which the use of water is to be resumed and a form for reporting the resumption of the use of the water right. If the use of the water has not been resumed and report thereon made on or before the date set for resumption of use such right shall revert to the state and again be subject to appropriation, as provided in this section. In the event the director of the department of water resources determines that a proposed extension of time within which to resume use of a water right shall not be approved as provided in this section, he shall deny same and forward notice of such action to the applicant by certified mail, which decision shall be subject to judicial review as hereafter provided.

(3) Any person or persons feeling themselves aggrieved by the determination of the department of water resources in approving or rejecting an application to change the point of diversion, place, period of use or nature of use of water under an established right or an application for an extension of time within which to resume the use of water as provided in this section, may, if a protest was filed and a hearing held thereon, seek judicial review pursuant to section 42-1701A(4), Idaho Code. If no protest was filed and no hearing held, the applicant may request a hearing pursuant to section 42-1701A(3), Idaho Code, for the purpose of contesting the action of the director and may seek judicial review of the final order of the director following the hearing pursuant to section 42-1701A(4), Idaho Code.

Approved March 18, 1996.

CHAPTER 298
(S.B. No. 1489, As Amended)

AN ACT

RELATING TO GROUND WATER DISTRICTS; AMENDING SECTION 34-1401, IDAHO CODE, TO EXEMPT GROUND WATER DISTRICTS FROM GENERAL ELECTION ADMINISTRATION; AMENDING SECTION 42-701, IDAHO CODE, TO PROVIDE THAT MEASUREMENT AND FEE REQUIREMENTS SHALL NOT APPLY TO IRRIGATION DISTRICTS AND GROUND WATER DISTRICTS WHO MEASURE, RECORD AND REPORT ACCEPTABLE TO THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES; AMENDING SECTION 42-706, IDAHO CODE, TO PROVIDE THAT GROUND WATER DISTRICTS MAY BE EXCLUDED FROM WATER MEASUREMENT DISTRICTS; AMENDING SECTION 42-5210, IDAHO CODE, TO CLARIFY THAT THE GROUND WATER RIGHTS VOTED MUST HAVE THEIR POINT OF DIVERSION WITHIN THE PROPOSED DISTRICT BOUNDARIES; AMENDING SECTION 42-5214, IDAHO CODE, TO CLARIFY THAT NONIRRIGATORS MUST GO THROUGH THE ANNEXATION PROCEDURE IF THEY DO NOT ELECT TO JOIN THE DISTRICT SIXTY DAYS AFTER ORGANIZATION; AMENDING SECTION 42-5216, IDAHO CODE, TO MAKE REFERENCE TO THE CHAIRMAN OF THE DISTRICT; AMENDING SECTION 42-5218, IDAHO CODE, TO CLARIFY THAT INITIAL BOARD OF DIRECTORS MAY SERVE FOR ONE YEAR, TO REVISE GENERAL ELECTION REQUIREMENTS AND TO AUTHORIZE VOTING BY MAIL; AMENDING SECTION 42-5224, IDAHO CODE, TO REMOVE WATER QUALITY PROGRAMS AND TO ALLOW A GROUND WATER DISTRICT TO TAKE AND REPORT MEASUREMENTS REQUIRED FOR WATER MEASUREMENT DISTRICTS; AND AMENDING SECTION 42-5241, IDAHO CODE, TO INCORPORATE UNIFORM PROCEDURES FOR COUNTIES TO COLLECT GROUND WATER DISTRICT ASSESSMENTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-1401, Idaho Code, be, and the same is hereby amended to read as follows:

34-1401. ELECTION ADMINISTRATION. Notwithstanding any provision to the contrary, the election official of each political subdivision shall administer all elections on behalf of any political subdivision, subject to the provisions of this chapter, including all special district elections and elections of special questions submitted to the electors as provided in this chapter. School districts governed by title 33, Idaho Code, and water districts governed by chapter 6, title 42, Idaho Code, irrigation districts governed by title 43, Idaho Code, ground water districts governed by chapter 52, title 42, Idaho Code, and municipal elections governed by the provisions of chapter 4, title 50, Idaho Code, are exempt from the provisions of this chapter. All municipal elections shall be conducted pursuant to the provisions of chapter 4, title 50, Idaho Code, except that they shall be governed by the elections dates authorized in section 34-106, Idaho Code, the registration procedures prescribed in section 34-1402, Idaho Code, and the time the polls are open pursuant to section 34-1409, Idaho Code. For the purposes of achieving uniformity, the secretary of state shall, from time to time, provide directives and instructions to the

various county clerks and political subdivision election officials. Unless a specific exception is provided in this chapter, the provisions of this chapter shall govern in all questions regarding the conduct of elections on behalf of all political subdivisions. In all matters not specifically covered by this chapter, other provisions of title 34, Idaho Code, governing elections shall prevail over any special provision which conflicts therewith.

A political subdivision may contract with the county clerk to conduct all or part of the elections for that political subdivision. In the event of such a contract, the county clerk shall perform all necessary duties of the election official of a political subdivision including, but not limited to, notice of the filing deadline, notice of the election, and preparation of the election calendar.

SECTION 2. 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 measuring 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 s~~Subsections (5) and (6) of this section shall not apply to:

(a) 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~~

(b) any irrigation district or ground water district having shown 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; and

(c) 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 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 3. That Section 42-706, Idaho Code, be, and the same is hereby amended to read as follows:

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, and ground water districts duly organized under chapter 52, title 42, Idaho Code, may petition to be excluded from the water measurement district at the time the water measurement district is created or modified, or at a later time, 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.

SECTION 4. That Section 42-5210, Idaho Code, be, and the same is hereby amended to read as follows:

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 election 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 <u>whose point of diversion is within the proposed district boundaries.</u>

SECTION 5. That Section 42-5214, Idaho Code, be, and the same is hereby amended to read as follows:

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. <u>After such sixty (60) day period, a nonirrigator may become a member of a district only through the annexation procedure described in sections 42-5245 through 42-5249, Idaho Code.</u>

(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.

SECTION 6. That Section 42-5216, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ chairman, and appoint a secretary and treasurer, who shall perform the duties imposed upon such officers under this chapter.

SECTION 7. That Section 42-5218, Idaho Code, be, and the same is hereby amended to read as follows:

42-5218. ELECTION, TERM OF OFFICE, NOMINATIONS AND QUALIFICATIONS. (1) One (1) year f~~F~~ollowing the organization of the district, an election shall be held in accordance with section 34-106(1), 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(1), 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-eight (2~~0~~8) days nor more than forty-two (4~~0~~2) 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.

(2) The board of directors may provide that any elections conducted under this chapter may be conducted by mail as long as the ballots are mailed not later than fourteen (14) days prior to the election and received by the secretary of the district by 8:00 p.m. on the date of the election.

SECTION 8. That Section 42-5224, Idaho Code, be, and the same is hereby amended to read as follows:

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 property 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 make, record and report annually to the director sufficient measurements of diversions and water levels of district members to allow the district to be excluded from any water measurements district created pursuant to sections 42-705 through 42-715, Idaho Code.

(20) 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.

SECTION 9. That Section 42-5241, Idaho Code, be, and the same is hereby amended to read as follows:

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.~~ District assessments shall be billed and collected in one (1) of the following ways:

(1) On or before the first day of December, the treasurer of the district shall mail an assessment bill to each water user and 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, which bill and notice shall set~~ting~~ 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~~ collected by the ground water district shall be due and payable on or before December 31 of each year, after which date each unpaid assessment 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 entitle the district to take any appropriate

action to collect the assessment, including suit and the foreclosure of liens as provided in this chapter; and, in addition, shall be subject to a penalty in the amount of fifteen dollars ($15.00) per delinquent assessment; or

(2) The board of directors of any ground water district organized under the laws of this state desiring to provide for the collection of district assessments by the county treasurer instead of the district treasurer may do so by adopting a resolution providing for collection by the county treasurer, and furnishing a copy of the resolution to the county auditor of each county in which any of the district lands are located; provided that the county commissioners of the county or counties must first approve the ground water district resolution by a proper resolution of the board of county commissioner's adopted by a majority of the county commissioners and made and entered upon the minutes of the board or boards of county commissioners. The board of county commissioner's resolution may provide for collection fees and for any additional fee against the ground water district for the cost of transferring records and initiating the collection process. The board of county commissioners of any county, having determined that the collection of ground water district assessments is an undue burden upon the county and shall no longer be provided, shall notify the board of directors of the ground water district by December 1 in the year preceding the year for which the action shall first be effective by providing to the board of directors a certified copy of the majority decision of the board of county commissioners.

If the ground water district board determines to issue assessments through the respective counties, the treasurer of the ground water district first shall prepare a list containing the legal description, the assessor's parcel number, the name and last known address of the owner of record, and the amount of the assessment for each parcel. The sum assessed and charged against each parcel shall be entered by the ground water district as the operation and maintenance assessment of the (name of district) ground water district. On or before the third Tuesday of July of each year, the list shall be certified by the treasurer of the ground water district to the county auditor of the county in which the lands are located, and the county treasurer shall enter the same upon the tax rolls as provided by law for the entry of taxes, against the land of each of the persons named in the list, together with the amounts thereof; and the same shall be subject to the same interest and penalties in case of delinquency as in the case of property taxes and shall be collected in the same manner as taxes and subject to the same right of redemption, and the lands sold for the collection of delinquency shall be subject to the same right of redemption, as the sale of land for property taxes.

When a ground water district includes lands in more than one (1) county, the treasurer of the ground water district shall prepare separate lists for the county assessor for each county. When a parcel lies partly in one (1) county and partly in another county, only the portion in a county shall be included on the list for that county. If the legal description of any parcel on any such list differs from the legal description as shown by the assessor's records, the assessor shall notify the district treasurer of the discrepancy and the district treasurer shall submit to the county assessor an addendum chang-

ing the description to conform with the assessor's records; provided, that where the discrepancy between the descriptions occurs because a portion of the parcel lies outside the district, no change in description shall be required, and the district assessments shall be effective only as to the portions of any parcel that are within district boundaries.

Assessments shall be due and payable on the date specified in the county's tax notice; shall be collected and accounted for by the county treasurer in the same manner as property taxes and shall be paid over to the ground water district treasurer together with any penalties or interest collected. The county shall enforce the collection of assessments in the same manner as it enforces the collection of taxes of the county, and failure to pay the assessment shall be subject to the same penalties. The collection of a ground water district's assessments by the county treasurer shall not make the district's obligations respecting any bond, contract, debt, or interest the obligation of the county.

SECTION 10. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 18, 1996.

CHAPTER 299
(S.B. No. 1475)

AN ACT

RELATING TO THE COMPREHENSIVE STATE WATER PLAN; RATIFYING AND APPROVING THE AMENDED COMPREHENSIVE STATE WATER PLAN FOR THE PRIEST RIVER BASIN AS ADOPTED BY THE IDAHO WATER RESOURCE BOARD ON NOVEMBER 9, 1995; AND DECLARING AN EMERGENCY.

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

SECTION 1. That pursuant to Section 42-1734B(6), Idaho Code, the amended Comprehensive State Water Plan for the Priest River Basin, adopted by resolution of the Idaho Water Resource Board on November 9, 1995, be, and the same is hereby ratified and approved. In accordance with Section 42-1734A, Idaho Code, the amended basin plan includes additional protected river reach designations summarized as follows:

(1) Lion Creek, headwaters to mouth, as a recreational river;

(2) Two-mouth Creek, headwaters to mouth, as a recreational river; and

(3) Indian Creek, headwaters to mouth, as a recreational river.

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 18, 1996.

CHAPTER 300
(S.B. No. 1431, As Amended)

AN ACT

RELATING TO SEXUAL EXPLOITATION BY A MEDICAL CARE PROVIDER; AMENDING CHAPTER 9, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-919, IDAHO CODE, TO DEFINE TERMS AND ESTABLISH PUNISHMENT FOR SEXUAL EXPLOITATION BY A MEDICAL CARE PROVIDER; AMENDING CHAPTER 4, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-406, IDAHO CODE, TO PROVIDE FOR COMMENCEMENT OF PROSECUTION FOR SEXUAL EXPLOITATION BY A MEDICAL CARE PROVIDER.

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

SECTION 1. That Chapter 9, 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 18-919, Idaho Code, and to read as follows:

18-919. SEXUAL EXPLOITATION BY A MEDICAL CARE PROVIDER. (a) Any person acting or holding himself out as a physician, surgeon, dentist, psychotherapist, chiropractor, nurse or other medical care provider as defined in this section, who engages in an act of sexual contact with a patient or client, is guilty of sexual exploitation by a medical care provider. For the purposes of this section, consent of the patient or client receiving medical care or treatment shall not be a defense. This section does not apply to sexual contact between a medical care provider and the provider's spouse, or a person in a domestic relationship who is also a patient or client. Violation of this section is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not to exceed one (1) year, or both.

(b) For the purposes of this section:

(1) "Intimate part" means the sexual organ, anus, or groin of any person, and the breast of a female.

(2) "Medical care provider" means a person who gains the trust and confidence of a patient or client for the examination and/or treatment of a medical or psychological condition, and thereby gains the ability to treat, examine and physically touch the patient or client.

(3) "Sexual contact" means the touching of an intimate part of a patient or client for the purpose of sexual arousal, gratification, or abuse, and/or the touching of an intimate part of a patient or client outside the scope of a medical examination or treatment.

(4) "Touching" means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

SECTION 2. That Chapter 4, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-406, Idaho Code, and to read as

follows:

19-406. COMMENCEMENT OF PROSECUTIONS FOR SEXUAL EXPLOITATION BY MEDICAL CARE PROVIDER. A prosecution for sexual exploitation by a medical care provider under section 18-919, Idaho Code, must be commenced by the filing of the complaint or the finding of an indictment within two (2) years after its commission.

Approved March 18, 1996.

CHAPTER 301
(S.B. No. 1426)

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; REPEALING SECTION 20-520, IDAHO CODE; AMENDING CHAPTER 5, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-520, IDAHO CODE, TO PROVIDE SENTENCING OPTIONS IN JUVENILE PROCEEDINGS; AND AMENDING SECTION 20-520, IDAHO CODE, AS ADDED BY SECTION 2 OF THIS ACT, TO DELETE THE OPTION ALLOWING THE FILING OF A PETITION FOR TERMINATION OF PARENTAL RIGHTS.

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

SECTION 1. That Section 20-520, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 5, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-520, Idaho Code, and 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 ninety (90) days for each unlawful or criminal act the juvenile is found to have com-

mitted, 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 one hundred eighty (180) days for each unlawful or criminal act;

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

(h) The court may order that the juvenile be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he receive other special care, or that he submit to an alcohol or drug evaluation, if needed, and for such purposes may place the juvenile in a hospital or other suitable facility;

(i) In support of an order under the provisions of this section, the court may make an additional order setting forth reasonable conditions to be complied with by the parents, the juvenile, his legal guardian or custodian, or any other person who has been made a party to the proceedings, including, but not limited to, restrictions on visitation by the parents or one (1) parent, restrictions on the juvenile's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

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

(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) years may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 20-518, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to section 20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

(l) An order under the provisions of this section for probation or placement of a juvenile with an individual or an agency may provide a schedule for review of the case by the court;

(m) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

(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;

(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;

(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.

(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.

(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. The amount of restitution which may be ordered by the court shall not be subject to the limitations of section 6-210, Idaho Code.

SECTION 3. That Section 20-520, Idaho Code, as added by Section 2 of this act, 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 ninety (90) days for each unlawful or criminal act the juvenile is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the juvenile has been adjudicated as an habitual status offender;

(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 one hundred eighty (180) days for each unlawful or criminal act.

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

(h) The court may order that the juvenile be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he receive other special care, or that he submit to an alcohol or drug evaluation, if needed, and for such purposes may place the juvenile in a hospital or other suitable facility;

(i) In support of an order under the provisions of this section, the court may make an additional order setting forth reasonable

conditions to be complied with by the parents, the juvenile, his legal guardian or custodian, or any other person who has been made a party to the proceedings, including, but not limited to, restrictions on visitation by the parents or one (1) parent, restrictions on the juvenile's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

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

~~(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) years may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 20-518, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to section 20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

(~~l~~k) An order under the provisions of this section for probation or placement of a juvenile with an individual or an agency may provide a schedule for review of the case by the court;

(~~m~~l) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

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

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

(~~p~~o) 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.

(~~q~~p) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the juvenile for every petition filed where there has been an adjudication that the juvenile is within the purview of this chapter and the court is ordering community service. Such fee is to be remitted by the court to the state insurance fund for purposes of providing worker's compensation insurance for persons performing community service pursuant to this chapter.

(~~r~~q) 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. 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 18, 1996.

CHAPTER 302
(S.B. No. 1388)

AN ACT

RELATING TO CONFIDENTIAL RELATIONS AND COMMUNICATIONS; AMENDING SECTION 9-203, IDAHO CODE, TO PROVIDE THAT PHYSICIANS MAY TESTIFY IN ALL CASES OF PHYSICAL INJURY TO A PERSON WHERE IT APPEARS THE INJURY HAS BEEN CAUSED AS A RESULT OF DOMESTIC VIOLENCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 9-203, Idaho Code, be, and the same is hereby amended to read as follows:

9-203. CONFIDENTIAL RELATIONS AND COMMUNICATIONS. There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person cannot be examined as a witness in the following cases:

1. A husband cannot be examined for or against his wife, without her consent, nor a wife for or against her husband, without his consent; nor can either, during the marriage or afterwards, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other nor to a criminal action or proceeding for a crime committed by violence of one against the person of the other, nor does this exception apply to any case of physical injury to a child where the injury has been caused as a result of physical abuse or neglect by one or both of the parents, nor does this exception apply to any case of lewd and lascivious conduct or attempted lewd and lascivious conduct where either party would otherwise be protected by this privilege.

2. An attorney cannot, without the consent of his client, be

examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment. The word client used herein shall be deemed to include a person, a corporation or an association.

3. A clergyman or priest cannot, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.

4. A physician or surgeon cannot, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient which was necessary to enable him to prescribe or act for the patient, provided, however, that:

(A) Nothing herein contained shall be deemed to preclude physicians from reporting of and testifying at all cases of physical injury to children, where it appears the injury has been caused as a result of physical abuse or neglect by a parent, guardian or legal custodian of the child.

(B) Nothing herein contained shall be deemed to preclude physicians from testifying at all cases of physical injury to a person where it appears the injury has been caused as a result of domestic violence.

(C) After the death of a patient, in any action involving the validity of any will or other instrument executed, or claimed to have been executed, by him, conveying or transferring any real or personal property or incurring any financial obligation, such physician or surgeon may testify to the mental or physical condition of such patient and in so testifying may disclose information acquired by him concerning such patient which was necessary to enable him to prescribe or act for such deceased.

(~~C~~D) That where any person or his heirs or representatives brings an action to recover damages for personal injuries or death, such action shall be deemed to constitute a consent by the person bringing such action that any physician who has prescribed for or treated said injured or deceased person and whose testimony is material in the action may testify.

(~~D~~E) That if the patient be dead and during his lifetime had not given such consent, the bringing of an action by a beneficiary, assignee or payee or by the legal representative of the insured, to recover on any life, health or accident insurance policy, shall constitute a consent by such beneficiary, assignee, payee or legal representative to the testimony of any physician who attended the deceased.

5. A public officer cannot be examined as to communications made to him in official confidence, when the public interests would suffer by disclosure.

6. Any certificated counselor, psychologist or psychological examiner, duly appointed, regularly employed and designated in such capacity by any public or private school in this state for the purpose of counseling students, shall be immune from disclosing, without the consent of the student, any communication made by any student so counseled or examined in any civil or criminal action to which such student is a party. Such matters so communicated shall be privileged and protected against disclosure.

7. Any parent, guardian or legal custodian shall not be forced to disclose any communication made by their minor child or ward to them concerning matters in any civil or criminal action to which such child or ward is a party. Such matters so communicated shall be privileged and protected against disclosure; excepting, this section does not apply to a civil action or proceeding by one against the other nor to a criminal action or proceeding for a crime committed by violence of one against the person of the other, nor does this section apply to any case of physical injury to a minor child where the injury has been caused as a result of physical abuse or neglect by one or both of the parents, guardian or legal custodian.

Approved March 18, 1996.

CHAPTER 303
(S.B. No. 1387)

AN ACT

RELATING TO THE UNIFORM TOD SECURITY REGISTRATION ACT; AMENDING CHAPTER 6, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW PART, TO BE KNOWN AS PART 3, CHAPTER 6, TITLE 15, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR REGISTRATION IN BENEFICIARY FORM AND SOLE OR JOINT TENANCY OWNERSHIP, TO PROVIDE APPLICABLE LAW WITH RESPECT TO REGISTRATION IN BENEFICIARY FORM, TO PROVIDE FOR ORIGINATION OF REGISTRATION IN BENEFICIARY FORM, TO PROVIDE THE FORM OF REGISTRATION IN BENEFICIARY FORM, TO PROVIDE THE EFFECT OF REGISTRATION IN BENEFICIARY FORM, TO PROVIDE FOR OWNERSHIP ON THE DEATH OF THE OWNER, TO PROVIDE FOR PROTECTION OF THE REGISTERING ENTITY, TO PROVIDE FOR NONTESTAMENTARY TRANSFER ON DEATH, TO PROVIDE THE TERMS, CONDITIONS AND FORMS FOR REGISTRATION, TO PROVIDE A SHORT TITLE AND RULES OF CONSTRUCTION, AND TO PROVIDE FOR APPLICATION OF PART 3.

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

SECTION 1. That Chapter 6, Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 3, Chapter 6, Title 15, Idaho Code, and to read as follows:

PART 3. UNIFORM TOD SECURITY REGISTRATION ACT

15-6-301. DEFINITIONS. In this part:

(1) "Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

(2) "Register," including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

(3) "Registering entity" means a person who originates or trans-

fers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

(4) "Security" means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account.

(5) "Security account" means: (i) a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death; or (ii) a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

15-6-302. REGISTRATION IN BENEFICIARY FORM -- SOLE OR JOINT TENANCY OWNERSHIP. Only individuals whose registration of a security shows sole ownership by one (1) individual or multiple ownership by two (2) or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by the entireties, or as owners of community property held in survivorship form, and not as tenants in common.

15-6-303. REGISTRATION IN BENEFICIARY FORM -- APPLICABLE LAW. A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent or its office making the registration, or by this or a similar statute of the law of the state listed as the owner's address at the time of registration. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

15-6-304. ORIGINATION OF REGISTRATION IN BENEFICIARY FORM. A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

15-6-305. FORM OF REGISTRATION IN BENEFICIARY FORM. Registration in beneficiary form may be shown by the words "transfer on death" or the abbreviation "TOD," or by the words "pay on death" or the abbreviation "POD," after the name of the registered owner and before the name of a beneficiary.

15-6-306. EFFECT OF REGISTRATION IN BENEFICIARY FORM. The designation of a TOD beneficiary on a registration in beneficiary form has

no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then surviving owners without the consent of the beneficiary.

15-6-307. OWNERSHIP ON DEATH OF OWNER. On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

15-6-308. PROTECTION OF REGISTERING ENTITY. (1) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this part.

(2) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in this part.

(3) A registering entity is discharged from all claims to a security by the estate, creditors, heirs or devisees of a deceased owner if it registers a transfer of the security in accordance with section 15-6-307, Idaho Code, and does so in good faith reliance (i) on the registration, (ii) on this part, and (iii) on information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity. The protections of this part do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under this part.

(4) The protection provided by this part to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

15-6-309. NONTESTAMENTARY TRANSFER ON DEATH. (1) A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this part and is not testamentary.

(2) This part does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of

this state.

15-6-310. TERMS, CONDITIONS AND FORMS FOR REGISTRATION. (1) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests (i) for registrations in beneficiary form, and (ii) for implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for "lineal descendants per stirpes." This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on one (1) or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

(2) The following are illustrations of registrations in beneficiary form which a registering entity may authorize:

(a) Sole owner-sole beneficiary: John S. Brown, TOD (or POD) John S. Brown Jr.

(b) Multiple owners-sole beneficiary: John S. Brown, Mary B. Brown, JT TEN TOD John S. Brown Jr.

(c) Multiple owners-primary and secondary (substituted) beneficiaries: John S. Brown, Mary B. Brown, JT TEN TOD John S. Brown Jr., SUB BENE Peter Q. Brown or John S. Brown, Mary B. Brown, JT TEN TOD John S. Brown Jr., LDPS.

15-6-311. SHORT TITLE -- RULES OF CONSTRUCTION. (1) This part shall be known as and may be cited as the "Uniform TOD Security Registration Act."

(2) This act shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of this act among states enacting it.

(3) Unless displaced by the particular provisions of this act, the principles of law and equity supplement its provisions.

15-6-312. APPLICATION OF PART. This part applies to registrations of securities in beneficiary form made before or after the effective date of this act, by decedents dying on or after the effective date of this act.

Approved March 18, 1996.

CHAPTER 304
(S.B. No. 1380)

AN ACT

RELATING TO REGULATION OF INSURANCE; AMENDING SECTION 41-3330, IDAHO CODE, TO CHANGE THE RIGHTS AVAILABLE TO PARTIES IN AN INSURANCE COMPANY RECEIVERSHIP PROCEEDING AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 41-3330, Idaho Code, be, and the same is hereby amended to read as follows:

41-3330. SETOFFS ~~AND--COUNTERCLAIMS~~. (1) Mutual debts or mutual credits between the insurer and another person in connection with any action or proceeding under this act shall be set off and the balance only shall be allowed or paid, except as provided in subsection (2) ~~hereof~~ of this section and section 41-3333, Idaho Code.

(2) No setoff ~~or--counterclaim~~ shall be allowed in favor of any person where:

(a) The obligation of the insurer to the person would not at the date of the filing of a petition for liquidation entitle the person to share as a claimant in the assets of the insurer;

(b) The obligation of the insurer to the person was purchased by or transferred to the person with a view to its being used as a setoff; or

(c) The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, or is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution~~;-or (d)--The--obligation--of--the--person--is--to-pay-premiums-whether earned-or-unearned,-to-the-insurer~~.

Approved March 18, 1996.

CHAPTER 305
(S.B. No. 1379)

AN ACT

RELATING TO REGULATION OF INSURANCE; REPEALING SECTIONS 41-336A, 41-336B, 41-336C AND 41-336D, IDAHO CODE; AMENDING SECTION 41-1441, IDAHO CODE, TO SPECIFY PARAMETERS FOR PREMIUM CHARGES FOR THE CASUALTY CARRIER ASSIGNED RISK PLAN; AMENDING SECTION 41-3806, IDAHO CODE, TO CHANGE THE DATE FOR REGISTRATION FOR INSURANCE HOLDING COMPANIES; AND AMENDING SECTION 72-322, IDAHO CODE, TO SPECIFY PARAMETERS FOR PREMIUM CHARGES FOR THE WORKER'S COMPENSATION INSURANCE ASSIGNED RISK PLAN AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Sections 41-336A, 41-336B, 41-336C and 41-336D, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 41-1441, Idaho Code, be, and the same is hereby amended to read as follows:

41-1441. ASSIGNED RISKS. Agreements may be made among casualty insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods, and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate codifications to be subject to the approval of the director. Premium charges for the assigned risk plan shall not be excessive, inadequate, nor unfairly discriminatory and shall provide sufficient revenue to make the plan self-sustaining and self-supporting.

SECTION 3. That Section 41-3806, Idaho Code, be, and the same is hereby amended to read as follows:

41-3806. REGISTRATION OF HOLDING COMPANY SYSTEM INSURERS. (1) Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the director; except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in:

(a) Section 41-3806, Idaho Code;

(b) Sections 41-3807 (1), 41-3808 and 41-3809, Idaho Code; and

(c) Either section 41-3807 (2), Idaho Code, or a provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within fifteen (15) days after the end of the month in which it learns of each change or addition.

Each insurer which is subject to registration under the provisions of this section shall register within fifteen (15) days after it becomes subject to registration, and annually thereafter ~~by May 1 of each year for the previous calendar~~ within one hundred twenty (120) days after the end of the holding company's fiscal year, unless the director, for good cause shown, extends the time for registration, and then within such extended time. Nothing in this section shall be construed to prohibit the director from requesting any authorized insurer, which is a member of a holding company system and not subject to registration under the provisions of this section, for a copy of the registration statement or other information filed by such insurer with the insurance regulatory authority of its state of domicile. Upon request of the insurer or of the insurance regulatory authority of another jurisdiction in which the insurer is authorized to transact insurance, the director at the insurer's expense shall furnish a copy of the registration statement or other information filed by a domestic insurer

with the director pursuant to this chapter.

(2) Every insurer subject to registration shall file a registration statement, on a form provided by the director, which shall contain current information about:

(a) The capital structure, general financial condition, ownership and management of the insurer and of any person controlling the insurer;

(b) The identity and relationship of every member of the insurance holding company system;

(c) The following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the insurer and its affiliates:

(i) Loans and other investments, and purchases, sales or exchanges of securities of the affiliate by the insurer or of the insurer by its affiliates;

(ii) Purchases, sales, or exchanges of assets;

(iii) Transactions not in the ordinary course of business;

(iv) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) All management and service contracts and all cost-sharing arrangements;

(vi) Reinsurance agreements;

(vii) Dividends and other distributions to shareholders; and

(viii) Consolidated tax allocation agreements.

(d) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system; and

(e) Other matters concerning transactions between the insurer and any affiliate as may be required by the director.

(3) All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(4) No information need be disclosed on the registration statement filed pursuant to this section if such information is not material to the purposes of this chapter. Unless the director by rule, regulation or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments, involving one-half of one per cent (.5%) or less of an insurer's admitted assets as of December 31 immediately preceding shall not be deemed material for purposes of this section.

(5) Subject to the provisions of section 41-3809, Idaho Code, each registered insurer shall report to the director all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof.

(6) Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer, where such information is reasonably necessary to enable the insurer to comply with the provisions of this chapter.

(7) The director shall terminate the registration of any insurer

which demonstrates that it is no longer a member of an insurance holding company system.

(8) The director may require or allow two (2) or more affiliated insurers subject to registration hereunder to file a consolidated registration statement.

(9) The director may allow any insurer, which is authorized to do business in this state and which is part of an insurance holding company system, to register on behalf of any affiliated insurer which is required to register under subsection (1) of this section, and to file all information and material required to be filed under the provisions of this chapter.

(10) This section shall not apply to any insurer, information or transaction if and to the extent that the director by rule, regulation, or order shall exempt the same from the provisions of this section as not comprehended within the purposes thereof.

(11) Any person may file with the director a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by the insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and the insurer as well as the bases for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person unless and until the director disallows the disclaimer. The director shall disallow a disclaimer only after a hearing thereon with notice to all parties in interest, and after making specific findings of fact to support such disallowance.

(12) The failure to file a registration statement or any summary of the registration statement thereto required in this section within the time specified for such filing shall be a violation of the provisions of this section.

SECTION 4. That Section 72-322, Idaho Code, be, and the same is hereby amended to read as follows:

72-322. ASSIGNED RISK. The ~~commissioner~~ director of the department of insurance, after consultation with sureties authorized to issue ~~workmen's~~ worker's compensation policies and guaranty contracts in this state, may put into effect a reasonable system for the equitable apportionment among such sureties of applicants for such policies or guaranty contracts who are in good faith entitled to but are unable to procure the same through ordinary methods. Such system shall be so drawn as to guarantee that such an applicant, if not in default on ~~workmen's~~ worker's compensation premiums, shall, following his application to the assigned risk system and tender of required premium, be covered by ~~workmen's~~ worker's compensation insurance or his coverage guaranteed. When any such system has been approved, all such carriers shall subscribe thereto and participate therein. Assignment shall be in such manner that, as far as practicable, no surety shall be assigned a larger proportion of compensation premiums under assigned policies during any calendar year than that which the total of compensation premiums written in the state by such surety during the preceding year bears to the total compensation premiums written in the state

by all such sureties during the preceding calendar year. Premium charges for the assigned risk plan shall not be excessive, inadequate, nor unfairly discriminatory and shall produce sufficient revenue to make the plan self-sustaining and self-supporting.

Approved March 18, 1996.

CHAPTER 306
(S.B. No. 1358)

AN ACT

RELATING TO DRAWING CHECKS WITHOUT FUNDS OR WITH INSUFFICIENT FUNDS; AMENDING SECTION 18-3106, IDAHO CODE, TO PROVIDE THAT THE PRIMA FACIE INTENT TO DEFRAUD AND KNOWLEDGE OF NO FUNDS OR INSUFFICIENT FUNDS SHALL NOT BE NEGATED BY EVIDENCE THAT THE CHECK DRAFT OR ORDER WAS FOR PAYMENT OF A PREEXISTING DEBT INCLUDING OPEN ACCOUNT.

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

SECTION 1. That Section 18-3106, Idaho Code, be, and the same is hereby amended to read as follows:

18-3106. DRAWING CHECK WITHOUT FUNDS -- DRAWING CHECK WITH INSUFFICIENT FUNDS -- PRIMA FACIE EVIDENCE OF INTENT -- STANDING OF PERSON HAVING ACQUIRED RIGHTS -- PROBATION CONDITIONS. (a) Any person who for himself or as the agent or representative of another or as an officer of a corporation, wilfully, with intent to defraud shall make or draw or utter or deliver, or cause to be made, drawn, uttered or delivered, any check, draft or order for the payment of money upon any bank or depositary, or person, or firm, or corporation, knowing at the time of such making, drawing, uttering or delivery that the maker or drawer has no funds in or credit with such bank or depositary, or person, or firm, or corporation, for the payment in full of such check, draft or order upon its presentation, although no express representation is made with reference thereto, shall upon conviction be punished by imprisonment in the state prison for a term not to exceed three (3) years or by a fine not to exceed fifty thousand dollars ($50,000) or by both such fine and imprisonment.

(b) Any person who for himself or as the agent or representative of another or as an officer of a corporation, wilfully, with intent to defraud shall make, draw, utter or deliver, or cause to be made, drawn, uttered or delivered, any check, draft or order for the payment of money in the sum of fifty dollars ($50.00) or more, or any series of transactions as defined in subsection (f) of this section, upon any bank or depositary, or person, or firm, or corporation, knowing at the time of such making, drawing, uttering or delivery that the maker or drawer has some but not sufficient funds in or credit with such bank or depositary, or person, or firm, or corporation, for the full payment of such check, draft or order or series of transactions upon presentation, although no express representation is made with reference

thereto, shall upon conviction be punished by imprisonment in the state prison for a term not to exceed three (3) years, or by a fine not to exceed fifty thousand dollars ($50,000), or by both such fine and imprisonment.

(c) Any person who for himself or as the agent or representative of another or as an officer of a corporation, wilfully, with intent to defraud, shall make, draw, utter or deliver, or cause to be made, drawn, uttered, or delivered, any check, draft or order for payment of money, in a sum less than fifty dollars ($50.00), which is not part of a series of transactions as defined in subsection (f) of this section, upon any bank or depositary, or person, or firm, or corporation, knowing at the time of such making, drawing, uttering or delivery that the maker or drawer has some but not sufficient funds in or credit with such bank or depositary, or firm, or person, or corporation, for the full payment of such check, draft or order upon its presentation, although no express representation is made with reference thereto, shall upon conviction for a first offense be punished by imprisonment in the county jail for a term not exceeding six (6) months, or by a fine not exceeding one thousand dollars ($1,000) or by both such fine and imprisonment; and upon a second conviction the person so convicted shall be punished by imprisonment in the county jail for a term not exceeding one (1) year, or by a fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment; provided, however, that upon a third or subsequent conviction, the person so convicted shall be punished by imprisonment in the state prison for a term not exceeding three (3) years, or by a fine not exceeding fifty thousand dollars ($50,000), or by both such fine and imprisonment.

(d) As against the maker or drawer thereof, the making, drawing, uttering or delivering of such check, draft or order as aforesaid shall be prima facie evidence of intent to defraud and of knowledge of no funds or insufficient funds, as the case may be, in or credit with such bank, or depositary, or person, or firm, or corporation, for the payment in full of such check, draft or order upon its presentation. This prima facie intent to defraud and knowledge of no funds or insufficient funds, as the case may be, shall not be negated by evidence that the check draft or order was for payment of a preexisting debt, including open accounts. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or depositary, or person, or firm, or corporation upon whom such check, draft or order is drawn for the payment of such check, draft or order.

(e) Any person having acquired rights with respect to a check which is not paid because the drawer has no funds, no account or insufficient funds, shall have standing to file a complaint under this section, regardless of whether he is the payee, holder or bearer of the check.

(f) For purposes of this section a "series of transactions" means a series of checks, drafts or orders for the payment of money which are less than fifty dollars ($50.00) individually but in the aggregate total one hundred fifty dollars ($150) or more, and which are made, uttered, drawn or delivered in violation of this section as part of a common scheme or plan.

(g) If a sentence of probation is ordered for violation of this section, the court as a condition of probation may require the defend-

ant to make restitution on all checks issued and which are unpaid at the date of commencement of the probation in addition to any other terms and conditions appropriate for the treatment and rehabilitation of the defendant.

Approved March 18, 1996.

CHAPTER 307
(S.B. No. 1349)

AN ACT

RELATING TO REQUIREMENTS FOR FILING OF FINANCING STATEMENTS; AMENDING SECTION 28-9-402, IDAHO CODE, TO AUTHORIZE A GLOBAL AMENDMENT PROCEDURE AND FEES FOR SUCH PROCEDURES FOR CERTAIN FINANCING STATEMENT FILINGS WITH THE SECRETARY OF STATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 28-9-402, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-402. FORMAL REQUISITES OF FINANCING STATEMENTS -- AMENDMENTS -- MORTGAGE AS FINANCING STATEMENT. (1) Except as provided in subsection (9) of this section, a financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 28-9-103, or when the financing statement is filed as a fixture filing (section 28-9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in

(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; or

(b) Proceeds under section 28-9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) Collateral as to which the filing has lapsed; or

(d) Collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)).

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor) .....

Address .....

Name of secured party (or assignee) .....

Address .....

1. This financing statement covers the following types (or items) of property:

(Describe) .....

2. (If applicable) The above goods are to become fixtures on:

(Describe Real Estate) .....

and this financing statement is to be filed in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is .....

3. (If the collateral is timber to be cut) The above described timber is standing on:

(Describe Real Estate).....

and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is.....

4. (If the collateral is minerals or the like) The above described minerals (or the like) are located on:

(Describe Real Estate).....

and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is.....

5. (If products of collateral are claimed) Products of the collateral are also covered. Signature of Debtor (or Assignor, whichever is applicable).....

Signature of Secured Party (or Assignee).....

(4) A financing statement may be amended as follows:

(a) A financing statement may be amended by filing a writing signed by both the debtor and the secured party, except as provided in paragraph (b) of this subsection. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this chapter, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(b) A financing statement other than a financing statement for farm products may be amended by filing a writing signed only by the secured party of record if the amendment consists of no more than a change of the secured party's name or address, a change of the debtor's address, a subordination of the secured party's interest in the collateral to the interest of a junior secured

party, or a combination of the foregoing functions.

(c) The secretary of state may ~~by administrative rule~~ prescribe a ~~system~~ form or electronic equivalent whereby a secured party may amend its name or address or both on multiple financing statements by one (1) writing signed by the secured party. The ~~secretary of state may provide in the rule a~~ fee ~~schedule~~ for such ~~bulk~~ global amendments shall be twenty dollars ($20.00), plus one dollar ($1.00) per financing statement which is amended. Only one (1) name, address, or combination thereof, may be included on a form or electronic equivalent. If the secured party name to be amended has different endings on some financing statements, the criterion name may be a partial name, provided it does not cause the selection of names other than the secured party's name. This paragraph shall not apply to financing statements for farm products, fixtures, timber to be cut or minerals.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 28-9-103, or a financing statement filed as a fixture filing (section 28-9-313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be filed for record in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if:

(a) the goods are described in the mortgage by item or type;

(b) the goods are or are to become fixtures related to the real estate described in the mortgage;

(c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records;

(d) the mortgage is duly recorded; and

(e) the mortgage:

(i) indicates conspicuously on its face either that it is intended also to be a fixture filing or that it is to be indexed not only as a mortgage but also as a fixture filing; or

(ii) is incorporated by reference in a recorded fixture filing financing statement or recorded amendment thereto, by written reference in such financing statement or amendment to the mortgage's book and page numbers or to its instrument recording number.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the

debtor more than four (4) months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

(9) A financing statement for farm products is sufficient if it contains the following information:

(a) The name and address of the debtor;

(b) The debtor's signature;

(c) The name, address, and signature of the secured party;

(d) The social security number of the debtor, or in the case of a debtor doing business other than as an individual, the debtor's Internal Revenue Service taxpayer identification number;

(e) A description by category of the farm products subject to the security interest and the amount of such products (where applicable);

(f) A reasonable description of the real estate where the farm products are produced or located. This provision may be satisfied by a description of the county(ies), and a legal description is not required.

(10) A financing statement described in subsection (9) must be amended in writing within three (3) months, and similarly signed and filed, to reflect any material changes. In the event such form is not incorporated within the financing statement, the effectiveness and continuation of that form is to be treated as if it were a part of the financing statement with which it is filed.

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 18, 1996.

CHAPTER 308
(S.B. No. 1314, As Amended)

AN ACT

RELATING TO EMERGENCY VEHICLES; AMENDING SECTION 49-123, IDAHO CODE, TO ADD VEHICLES BELONGING TO, OR OPERATED BY EMS PERSONNEL CERTIFIED OR OTHERWISE RECOGNIZED BY THE EMS BUREAU OF THE IDAHO DEPARTMENT OF HEALTH AND WELFARE WHILE IN THE PERFORMANCE OF EMERGENCY MEDICAL SERVICES, TO THE DEFINITION OF AUTHORIZED EMERGENCY VEHICLE; AND AMENDING SECTION 49-910A, IDAHO CODE, TO ADD VEHICLES BELONGING TO, OR OPERATED BY EMS PERSONNEL CERTIFIED OR OTHERWISE RECOGNIZED BY THE EMS BUREAU OF THE IDAHO DEPARTMENT OF HEALTH AND WELFARE WHILE IN THE PERFORMANCE OF EMERGENCY MEDICAL SERVICES.

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

SECTION 1. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

49-123. DEFINITIONS -- V.

(1) "Variable load suspension axle" means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. See also section 49-117, Idaho Code.

(a) "Fully raised" means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.

(b) "Fully deployed" means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.

(2) "Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one or more lanes of traffic, other emergency vehicles designated by the director of the department of law enforcement or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

(c) Commercial vehicle or commercial motor vehicle. For the purposes of chapter 3 of this title, (driver licenses), a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

1. Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or

2. Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or

3. Is designed to transport sixteen (16) or more people, including the driver; or

4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4 of this title (motor vehicle registration), a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(d) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.

(e) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(f) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

(g) Motor vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheelchairs.

(h) Noncommercial vehicle. For the purposes of chapter 4 of this title, (motor vehicle registration), a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial

vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(i) Reconstructed or repaired vehicle. Every vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a "reconstructed vehicle" or "repaired vehicle" brand is required, and other vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. A glider kit vehicle is not a reconstructed vehicle.

(j) Salvage vehicle. Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any motor vehicle, such motor vehicle shall be considered to be a salvage vehicle.

(k) Specially constructed vehicle. Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction and cannot be visually identified as a vehicle produced by a particular manufacturer. This includes:

1. A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or

2. A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or

3. A vehicle that has been constructed by using major component parts from one or more manufactured vehicles and cannot be identified as a specific make or model; or

4. A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model.

(l) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair due to scrapping, dismantling or destruction. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "Identifying number",

section 49-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "full-time salesman", section 49-107, Idaho Code, and "part-time salesman", section 49-117, Idaho Code)

(5) "Veteran." (See section 65-509, Idaho Code)

(6) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

SECTION 2. That Section 49-910A, Idaho Code, be, and the same is hereby amended to read as follows:

49-910A. COLOR OF LAMPS AND GLOBES LIMITED TO CERTAIN VEHICLE CLASSES. For the purposes of this chapter lighting devices utilizing various colors of lighted globes approved by the director of law enforcement for use on vehicles shall be restricted to the following class of vehicles:

(1) Police vehicles. Only police vehicles shall display blue lights, lenses or globes.

(2) Designated emergency vehicles. Fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, ambulances, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, and wreckers, as defined in section 49-124, Idaho Code, which are engaged in motor vehicle recovery operations and are blocking part or all of one or more lanes of traffic, are designated emergency vehicles. With the exception of school buses as provided in section 49-915, Idaho Code, only fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, ambulances, designated emergency vehicles described herein, vehicles authorized by the Idaho transportation board for use in the enforcement of vehicle laws specified in section 40-510, Idaho Code, and other emergency vehicles designated by the director of the department of law enforcement may display red flashing lights or red lenses or globes which are visible from the front of the vehicle.

(3) All vehicles. Any motor vehicle may have attached to it a flashing amber light to warn motorists of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing the vehicle displaying such lighting. The driver of an approaching vehicle shall yield the right-of-way to any stationary vehicle displaying a flashing amber light.

Approved March 18, 1996.

CHAPTER 309
(H.B. No. 751)

AN ACT

RELATING TO PROPERTY EXEMPT FROM ATTACHMENT OR LEVY; AMENDING SECTION 11-604, IDAHO CODE, TO DELETE REFERENCES TO PLANS PAYING BENEFITS DUE TO AGE, ILLNESS, DISABILITY, OR LENGTH OF SERVICE; AMENDING CHAPTER 6, TITLE 11, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 11-604A, IDAHO CODE, TO PROVIDE A STATEMENT OF POLICY, TO PROVIDE THAT CERTAIN RETIREMENT BENEFITS ARE EXEMPT FROM LEGAL PROCESS, TO PROVIDE THAT MONEY FROM CERTAIN EMPLOYEE BENEFIT PLANS ARE EXEMPT FROM LEGAL PROCESS, TO DEFINE "EMPLOYEE BENEFIT PLAN" AND TO PROVIDE THAT EMPLOYEE BENEFIT PLANS BE DEEMED SPENDTHRIFT TRUSTS; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Section 11-604, Idaho Code, be, and the same is hereby amended to read as follows:

11-604. PROPERTY EXEMPT TO EXTENT REASONABLY NECESSARY FOR SUPPORT. (1) An individual is entitled to exemption of the following property to the extent reasonably necessary for the support of him and his dependents:

(a) benefits paid or payable by reason of disability or illness;

(b) money or personal property received, and rights to receive money or personal property for alimony, support, or separate maintenance;

(c) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent; <u>and</u>

(d) proceeds or benefits paid or payable on the death of an insured, if the individual was the spouse or a dependent of the insured~~;-and~~

~~(e)--assets-held,-payments-made,-and-amounts-payable-under-a-stock bonus,-pension,-profit-sharing,-annuity,-or-similar-plan--or--contract,--providing--benefits-by-reason-of-age,-illness,-disability, or-length-of-service.~~

(2) The phrase "property to the extent reasonably necessary for the support of him and his dependents" means property required to meet the present and anticipated needs of the individual and his dependents, as determined by the court after consideration of the individual's responsibilities and all the present and anticipated property and income of the individual, including that which is exempt.

(3) The exemptions allowed by this section shall be lost immediately upon the commingling of any of the funds or amounts described in this section with any other funds.

SECTION 2. That Chapter 6, Title 11, Idaho Code, be, and the same is hereby amended by the addition thereto of a <u>NEW SECTION,</u> to be known and designated as Section 11-604A, Idaho Code, and to read as

follows:

11-604A. PENSION MONEY EXEMPT. (1) It is the policy of the state of Idaho to ensure the well-being of its citizens by protecting retirement income to which they are or may become entitled. For that purpose generally and pursuant to the authority granted to the state of Idaho under 11 U.S.C. section 522(b)(2), the exemptions in this section relating to retirement benefits are provided.

(2) Unless otherwise provided by federal law, any money received by any citizen of the state of Idaho as a pension from the government of the United States, whether the money be in the actual possession of a citizen or be deposited or loaned, shall be exempt from execution, attachment, garnishment, seizure, or other levy by or under any legal process whatever. When a debtor dies, or absconds, and leaves his family any money exempted by this subsection, the money shall be exempt to the family as provided in this subsection. This subsection shall not apply to any child support collection actions, if otherwise permitted by federal law.

(3) The right of a person to a pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Idaho under any employee benefit plan, and any fund created by the benefit plan or arrangement, shall be exempt from execution, attachment, garnishment, seizure, or other levy by or under any legal process whatever. This subsection shall not apply to any child support collection actions, if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in the plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for those orders under the plan, or, in the case of benefits payable under a plan described in sections 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of the internal revenue code as in effect before January 1, 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides for maintenance or support. This subsection shall not prohibit actions against an employee benefit plan or fund for valid obligations incurred by the plan or fund for the benefit of the plan or fund.

(4) For the purposes of this section, the term "employee benefit plan" means:

(a) Assets held, payments made, and amounts payable under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract, providing benefits by reason of age, illness, disability, or length of service;

(b) Any plan or arrangement, whether funded by a trust, an annuity contract, an insurance contract, or an individual account, that is described in sections 401(a), 403(a), 403(b), or 408 of the internal revenue code of 1986, as amended, or section 409 of the internal revenue code as in effect before January 1, 1984. The term "employee benefit plan" shall not include any employee benefit plan that is established or maintained for its employees by the government of the United States, by the state of Idaho or any political subdivision of the state, or by any agent or instru-

mentality of any of the foregoing.

(5) An employee benefit plan shall be deemed to be a spendthrift trust, regardless of the source of funds, the relationship between the beneficiary and the trustee or custodian of the plan, or the ability of the debtor to withdraw, borrow or otherwise become entitled to benefits from the plan before retirement. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in the plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for those orders under the plan, or, in the case of benefits payable under a plan described in sections 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of the internal revenue code as in effect before 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides home maintenance or support.

SECTION 3. 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 18, 1996.

CHAPTER 310
(H.B. No. 542, As Amended)

AN ACT

RELATING TO DOG RACING; AMENDING CHAPTER 25, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2514A, IDAHO CODE, TO PROVIDE THAT LIVE DOG RACING IN THIS STATE AND PARI-MUTUEL BETTING ON SUCH RACING AND THE TRAINING OF DOGS TO COMPETE IN LIVE DOG RACES SHALL BE ILLEGAL AFTER THE EFFECTIVE DATE OF THIS ACT AND TO PROVIDE CERTAIN EXCEPTIONS FOR SIMULCASTS; AMENDING SECTION 54-2514, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF DEPOSITS FROM PARI-MUTUEL TELEVISED OR SIMULCAST DOG RACING AND TO PROVIDE FOR BREAKAGE, TO DELETE OBSOLETE LANGUAGE, TO PROHIBIT SIMULCAST OR TELEVISED DOG RACES ON AND AFTER JULY 1, 1999 AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 25, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-2514A, Idaho Code, and to read as follows:

54-2514A. DOG RACING ILLEGAL AFTER THE EFFECTIVE DATE OF THIS ACT. On and after the effective date of this act, live dog races and pari-mutuel betting on such races or the training of dogs to compete in live dog races shall be illegal to be conducted in the state of

Idaho. The provisions of this section shall not be deemed to alter or affect simulcasts and simulcast pari-mutuel wagering at a facility that was licensed and authorized prior to January 1, 1996, to conduct live dog races and pari-mutuel wagering on them prior to the effective date of this act, and such simulcasts and pari-mutuel wagering on such simulcasts may be conducted at that facility as if the facility were still licensed and under the same conditions and restrictions imposed by law on a licensee until July 1, 1999. Any person participating or conducting a live dog race or pari-mutuel betting on such a live dog race or the training of dogs to compete in live dog races in violation of this section shall be guilty of a felony.

SECTION 2. That Section 54-2514, Idaho Code, be, and the same is hereby amended to read as follows:

54-2514. DOG RACING -- DISTRIBUTION OF DEPOSITS -- BREAKAGE. (1) Each licensee conducting the pari-mutuel system for ~~live~~ simulcast or televised dog races shall distribute all sums deposited in any pool as follows:

(a) Seventy-nine and one-half percent (79.5%) of any win, place or show pool to the winner thereof, and twenty and one-half percent (20.5%) to the licensee;

(b) Seventy-seven percent (77%) of all two (2) dog exotic wagers including, but not limited to, daily doubles and quinellas to the winner thereof, and twenty-three percent (23%) to the licensee;

(c) Seventy-five percent (75%) of all three (3) or more dog exotic wagers including, but not limited to, trifecta, twin trifecta, pick three, pick six and superfecta, to the winner thereof, and twenty-five percent (25%) to the licensee.

(2) Each licensee conducting the pari-mutuel system for ~~live~~ simulcast or televised dog races shall retain the sums deposited in any pool as required in subsection (1) of this section, for distribution and payment based upon gross daily receipts as follows:

(a) One and one-quarter percent (1.25%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for deposit in the racing commission account.

(b) One percent (1%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for payment to the county in which the dog racing facility is located. The board of county commissioners shall spend such revenues only for visitor promotion.

(c) One-half percent (.5%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for deposit in the Idaho horse breeders' and ~~owner's~~ owners' award account in the state treasury for further distribution as follows:

(i) Fifty percent (50%) of all moneys deposited in the Idaho horse breeders' and owners' award account shall be distributed by the racing commission annually but not later than December 15, to the breeders of Idaho bred winners of each approved horse race in Idaho in proportion to the handle generated by each breed; and

(ii) Fifty percent (50%) of all moneys deposited in the Idaho horse breeders' and owners' award account shall be dis-

tributed by the racing commission annually but not later than December 15, in equal amounts to owners of Idaho bred horse race winners.

(d) From the balance of gross daily receipts remaining with the licensee after the distributions required in subsections (1)(a), (b) and (c) of this section from simulcast or televised dog races, the following amounts shall be paid or retained:

(i) From the first twenty thousand dollars ($20,000) of gross daily receipts, the licensee shall retain the entire amount;

(ii) From the next ten thousand dollars ($10,000) of gross daily receipts, (gross daily receipts between twenty thousand dollars ($20,000) and thirty thousand dollars ($30,000)) the public school income fund shall receive one-quarter of one percent (.25%) and the licensee shall retain the balance~~.~~;

(iii) From the next ten thousand dollars ($10,000) of gross daily receipts (gross daily receipts between thirty thousand dollars ($30,000) and forty thousand dollars ($40,000)) the public school income fund shall receive one and one-quarter percent (1.25%) and the licensee shall retain the balance~~.~~;

(iv) From all amounts of over forty thousand dollars ($40,000) of gross daily receipts, the public school income fund shall receive two and one-quarter percent (2.25%) and the licensee shall retain the balance.

(3) Each licensee may retain the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of ten (10), known as breakage, and the total amount of unclaimed tickets at the termination of the time allowed by rule of the commission.

~~(4)--No--dog--racing-facility-shall-be-granted-racing-dates-by-the Idaho-racing-commission-if-such-facility-is-located-within-one-hundred (100)-miles-of-any-operating-pari-mutuel-horse-racing-facility-in--the state-of-Idaho-which-conducted-pari-mutuel-horse-racing-in-1986.~~

(4) Notwithstanding the foregoing, no simulcast or televised dog races shall be permitted to be conducted in this state on and after July 1, 1999.

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

Approved March 18, 1996.

CHAPTER 311
(H.B. No. 837)

AN ACT

RELATING TO SCHOOL AGE; AMENDING SECTION 33-201, IDAHO CODE, TO PROVIDE THAT STUDENTS WHO ATTEND AN OUT-OF-STATE KINDERGARTEN SHALL BE ADMITTED TO FIRST GRADE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-201, Idaho Code, be, and the same is hereby amended to read as follows:

33-201. SCHOOL AGE. The services of the public schools of this state are extended to any acceptable person of school age. "School age" is defined as including all persons resident of the state, between the ages of five (5) and twenty-one (21) years. For the purposes of this section, the age of five (5) years shall be attained when the fifth anniversary of birth occurs on or before the first day of September of the school year in which the child is to enroll in kindergarten. For a child enrolling in the first grade, the age of six (6) years must be reached on or before the first day of September of the school year in which the child is to enroll. Any child of the age of five (5) years who has completed a private or public out-of-state kindergarten for the required four hundred fifty (450) hours but has not reached the "school age" requirement in Idaho shall be allowed to enter the first grade.

For resident children with disabilities who qualify for special education and related services under public law 94-142 and subsequent amendments thereto, and applicable state and federal regulations, "school age" shall begin at the attainment of age three (3) and shall continue through the semester of school in which the student attains the age of twenty-one (21) years.

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 18, 1996.

CHAPTER 312
(H.B. No. 861)

AN ACT
APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 1997; 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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. COMPENSATION:					
FROM:					
Industrial Administration Fund	$1,595,300	$ 728,800	$ 43,700	$ 877,200	$3,245,000
Federal Grant Fund	2,700	2,200			4,900
Miscellaneous Revenue Fund		20,000			20,000
TOTAL	$1,598,000	$ 751,000	$ 43,700	$ 877,200	$3,269,900
B. REHABILITATION:					
FROM:					
Industrial Administration Fund	$2,218,400	$ 564,800	$153,000		$2,936,200
C. CRIME VICTIMS:					
FROM:					
Crime Victims Compensation Fund	$ 229,600	$ 68,500	$ 11,000	$1,146,600	$1,455,700
Federal Grant Fund				200,000	200,000
TOTAL	$ 229,600	$ 68,500	$ 11,000	$1,346,600	$1,655,700
D. ADJUDICATION:					
FROM:					
Industrial Administration Fund	$ 902,600	$ 330,100	$ 9,500		$1,242,200
GRAND TOTAL	$4,948,600	$1,714,400	$217,200	$2,223,800	$9,104,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Industrial Commission is authorized no more than one hundred twenty-four (124) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 1996.

CHAPTER 313
(H.B. No. 859)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR ADULT AND ADC ASSISTANCE PAYMENTS FOR FISCAL YEAR 1997.

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 Adult and ADC Assistance Payments the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 1996, through June 30, 1997:

FOR:	
Trustee and Benefit Payments	$400,000
FROM:	
General Fund	$400,000

Approved March 18, 1996.

CHAPTER 314
(H.B. No. 858)

AN ACT
APPROPRIATING MONEYS FOR THE STATE LIQUOR DISPENSARY FOR FISCAL YEAR 1997; 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, 1996, through June 30, 1997:

FOR:	
Personnel Costs	$5,366,600
Operating Expenditures	2,785,300
Capital Outlay	301,300
TOTAL	$8,453,200
FROM:	
Liquor Control Fund	$8,453,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Liquor Dispensary is authorized no more than one hundred thirty-eight (138) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 1996.

CHAPTER 315
(H.B. No. 857)

AN ACT
APPROPRIATING MONEYS FOR THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 1997; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Commission for the Blind and Visually Impaired the following amounts, to be expended according to the designated standard classifications from the listed funds, for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$ 686,900	$ 74,600	$13,600	$ 452,300	$1,227,400
Adaptive Aids and Appliances Fund		44,800			44,800
Randolph Sheppard Fund	33,100	7,000		56,300	96,400
Rehabilitation Revenue and Refunds Fund	41,800	32,500		12,400	86,700
Federal Grant Fund	924,600	428,300	20,000	549,800	1,922,700
Miscellaneous Revenue Fund		16,600		8,800	25,400
TOTAL	$1,686,400	$603,800	$33,600	$1,079,600	$3,403,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission for the Blind and Visually Impaired is authorized no more than forty-one (41) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 1996.

CHAPTER 316
(H.B. No. 856)

AN ACT

APPROPRIATING MONEYS TO THE CATASTROPHIC HEALTH CARE COST FUND FOR FISCAL YEAR 1996, IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 323, LAWS OF 1995; APPROPRIATING MONEYS TO THE CATASTROPHIC HEALTH CARE COST FUND FOR FISCAL YEAR 1997; 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 323, Laws of 1995, there is hereby appropriated $235,400 from the General Fund to be transferred to the Catastrophic Health Care

Cost Fund for the period July 1, 1995, through June 30, 1996.

SECTION 2. There is hereby appropriated $9,764,600 from the General Fund to be transferred to the Catastrophic Health Care Cost Fund for the period July 1, 1996, through June 30, 1997.

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

Approved March 18, 1996.

CHAPTER 317
(H.B. No. 855)

AN ACT

APPROPRIATING MONEYS FOR THE HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 1997; 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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. WOI VETERINARY EDUCATION PROGRAM:					
FROM:					
General Fund	$ 368,800	$866,000	$12,900		$1,247,700
B. WAMI MEDICAL EDUCATION PROGRAM:					
FROM:					
General Fund	$ 551,100	$ 59,800	$13,300	$1,844,000	$2,468,200
Unrestricted Current Fund	31,600			82,400	114,000
TOTAL	$ 582,700	$ 59,800	$13,300	$1,926,400	$2,582,200
C. IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General Fund	$ 143,600	$ 12,400		$ 349,500	$ 505,500

Unrestricted Current Fund	61,600				61,600
TOTAL	$ 205,200	$ 12,400		$ 349,500	$ 567,100
D. WICHE AND UNIVERSITY OF UTAH MEDICAL EDUCATION PROGRAM:					
FROM:					
General Fund				$ 673,500	$ 673,500
E. FAMILY PRACTICE RESIDENCY PROGRAM:					
FROM:					
General Fund	$ 324,600	$ 23,700	$ 7,900	$ 356,200	$ 712,400
GRAND TOTAL	$1,481,300	$961,900	$34,100	$3,305,600	$5,782,900

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, 1996, through June 30, 1997, 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, WICHE and University of Utah Medical Education Program, and Family Practice Residency Program, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any appropriation made to each respective program under Section 1, Chapter 345, Laws of 1995, for each respective program to be used for nonrecurring expenditures for the period July 1, 1996, through June 30, 1997.

SECTION 4. The reappropriation granted in Section 3 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1996, is zero, the reappropriation for the General Fund in Section 3 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1996, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amounts reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for each respective program bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 18, 1996.

CHAPTER 318
(H.B. No. 853)

AN ACT

APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR 1997.

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, 1996, through June 30, 1997:

FROM:	
General Fund	$11,299,200

Approved March 18, 1996.

CHAPTER 319
(H.B. No. 852)

AN ACT

APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 1997; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED BALANCES; SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES.

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

SECTION 1. There is hereby appropriated to the 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, 1996, through June 30, 1997:

FROM:	
General Fund	$19,893,200
Equine Education Fund	135,000
Hatch Fund	1,388,100
Regional Research Fund	573,600
Farm Safety Fund	20,000
Smith-Lever Fund	2,403,200
Miscellaneous Revenue Fund	181,900
TOTAL	$24,595,000
FOR:	
Personnel Costs	$21,356,800
Operating Expenditures	2,965,300
Capital Outlay	272,900
TOTAL	$24,595,000

SECTION 2. There is hereby reappropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service Program, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 282, Laws of 1995, to be used for nonrecurring expenditures for the period July 1, 1996, through June 30, 1997.

SECTION 3. The reappropriation for the General Fund granted in Section 2 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1996, is zero, the reappropriation for the General Fund in Section 2 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1996, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 2 of this act shall be in the proportion that the reappropriation for the Agricultural Research and Cooperative Extension Service Program bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 4. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than four hundred eight and fourteen-hundredths (408.14) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, 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 5. Of the appropriation made from the General Fund in Section 1 of this act, $21,300 shall be used solely and only for sugar beet rhizomania research.

Approved March 18, 1996.

CHAPTER 320
(H.B. No. 851)

AN ACT

APPROPRIATING MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 1997; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; 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 Controller the following amounts, to be expended for the named programs according to the designated standard classifications from the listed funds for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. STATEWIDE ACCOUNTING AND PAYROLL:					
FROM:					
General Fund	$1,283,800	$ 544,100	$ 124,600		$ 1,952,500
Professional Services Fund	886,300	2,128,000	12,000		3,026,300
TOTAL	$2,170,100	$2,672,100	$ 136,600		$ 4,978,800
B. COMPUTER CENTER:					
FROM:					
Data Processing Services Fund	$2,463,000	$2,456,500	$1,824,100		$ 6,743,600
C. BOARD OF EXAMINERS:					
FROM:					
General Fund				$7,500	$ 7,500
GRAND TOTAL	$4,633,100	$5,128,600	$1,960,700	$7,500	$11,729,900

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

SECTION 3. There is hereby reappropriated to the State Controller, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any appropriation made to the State Controller for the period July 1, 1995, through June 30, 1996, to be used for nonrecurring expenditures only for the period July 1, 1996, through June 30, 1997.

SECTION 4. The reappropriation granted in Section 3 of this act, shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1996, 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, 1996, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the State Controller bears to the total General Fund reappropriation authority granted in all state agencies.

SECTION 5. In accordance with Section 67-3519, Idaho Code, the Office of the State Controller is authorized no more than ninety-eight and forty-five one hundredths (98.45) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 18, 1996.

CHAPTER 321
(H.B. No. 850)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 1997; AUTHORIZING AN AMOUNT FOR PAYMENT OF BANK SERVICE FEES; PROVIDING FOR THE RECOVERY OF BANKING SERVICES COSTS TO THE GENERAL FUND; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDITIONAL FUNDS FOR FISCAL YEAR 1996; AND DECLARING AN EMERGENCY FOR SECTION 6 OF THIS ACT.

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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$648,700	$444,900	$27,500	$1,121,100
Professional Services Fund	68,300	20,700	5,100	94,100
Treasurer's Office-LGIP Fund	85,700	63,400	6,300	155,400
TOTAL	$802,700	$529,000	$38,900	$1,370,600

SECTION 2. Of the amount appropriated for Operating Expenditures in Section 1 of this act, $356,000 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, 1996, through June 30, 1997, any other provisions of law notwithstanding.

SECTION 3. The moneys assessed by the Division of Financial Management in accordance with Section 67-3531, Idaho Code, for State Treasurer banking services shall be placed in the Indirect Cost Recovery Fund. On June 30, 1997 the State Controller shall transfer the

moneys in the Indirect Cost Recovery Fund, up to a maximum of nine hundred ninety-four thousand dollars ($994,000), to the state general fund.

SECTION 4. It is legislative intent that an amount, not to exceed $1,000 of the amount appropriated in Section 1 of this act, may be used at the discretion of the State Treasurer to assist in defraying expenses relating to or resulting from the discharge of the State Treasurer's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 5. 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, 1996, through June 30, 1997, 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 6. In addition to the appropriation made in Section 1, Chapter 263, Laws of 1995, there is hereby appropriated to the State Treasurer the following amount to be expended for the designated program according to the designated standard classification from the listed fund for the period July 1, 1995, through June 30, 1996:

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

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Section 6 of this act shall be in full force and effect on and after its passage and approval.

Approved March 18, 1996.

CHAPTER 322
(H.B. No. 836)

AN ACT

RELATING TO RECODIFICATION OF TITLE 63, IDAHO CODE, PROPERTY TAX LAW; AMENDING SECTIONS 6-927, 6-928, 22-2406, 25-2401 AND 25-2402, IDAHO CODE, TO DELETE OBSOLETE CODE CITATIONS; AMENDING SECTIONS 27-121 AND 31-870, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 31-1008, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 31-1411A, 31-1420 AND 31-1507, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 31-1508, IDAHO CODE, TO PROVIDE FOR TRANSFER OF MONEYS FROM ONE COUNTY FUND TO ANOTHER FUND WITHIN THE SAME COUNTY, TO PROVIDE FOR ORDER OF PAYMENT AND TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 31-1605, IDAHO CODE, TO PROVIDE

CORRECT CODE CITATIONS; AMENDING SECTION 31-3503, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTIONS 31-4314 AND 31-4318, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 31-4603, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 31-4706 AND 33-405A, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 33-802, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-804, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 33-805, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE, TO PROVIDE A CORRECT CODE CITATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-1002, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1002D, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 33-1003, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1009, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 33-1103, 33-1114 AND 33-1408, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 33-2101A, IDAHO CODE, TO DELETE AN OBSOLETE CODE CITATION AND TO PROVIDE A CORRECT CODE CITATION; AMENDING SECTION 33-2110A, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-2111, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2112, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 34-107, IDAHO CODE, TO PROVIDE A CORRECT CODE CITATION; AMENDING SECTION 39-1334, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 42-619, IDAHO CODE, TO PROVIDE A CORRECT CODE CITATION; AMENDING SECTIONS 42-3215 AND 42-3217, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 42-3218, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-3708, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 43-701E, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 43-717, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 44-2102, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 44-2206, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 46-1008, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 49-422, 50-223, 50-224 AND 50-225, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 50-1006, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTIONS 50-1007 AND 50-1308, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 50-1512, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 50-2903, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-2908, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 54-4105, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTIONS 59-1394 AND 63-1605, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 63-1607, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 63-1703, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO PROVIDE COR-

RECT TERMINOLOGY; AMENDING SECTION 63-1705, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 63-2434, 63-3077, 63-3102, 63-3402a AND 63-3503, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 63-3622JJ, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 434, LAWS OF 1990, TO REDESIGNATE THE SECTION AND TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTIONS 63-3638, 63-3811 AND 63-3815, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 67-8208, IDAHO CODE, TO DELETE OBSOLETE CODE CITATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 70-1702, IDAHO CODE, TO PROVIDE A CORRECT CODE CITATION 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 6-927, Idaho Code, be, and the same is hereby amended to read as follows:

6-927. TAX LEVY TO PAY COMPREHENSIVE LIABILITY PLAN. Notwithstanding any provisions of law to the contrary, all political subdivisions shall have authority to levy an annual property tax in the amount necessary to provide for a comprehensive liability plan whether by the purchase of insurance or otherwise as herein authorized; provided, that the revenues derived therefrom may not be used for any other purpose. ~~Such special levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.~~

SECTION 2. That Section 6-928, Idaho Code, be, and the same is hereby amended to read as follows:

6-928. TAX LEVY TO PAY CLAIM OR JUDGMENT. Notwithstanding any provisions of law to the contrary and in the event there are no funds available, the political subdivision shall levy and collect a property tax, at the earliest time possible, in an amount necessary to pay a claim or judgment arising under the provisions of this act where the political subdivision has failed to purchase insurance or otherwise provide a comprehensive liability plan to cover a risk created under the provisions of this act. ~~Such special levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.~~

SECTION 3. That Section 22-2406, Idaho Code, be, and the same is hereby amended to read as follows:

22-2406. COUNTY POWERS. (1) The county control authority is authorized to:

(a) Have noxious weeds controlled without cost to the landowner, notwithstanding any other provision of this chapter relating to payment of cost; and

(b) Quarantine any tract of land under its jurisdiction when it appears there is an infestation of noxious weeds beyond the ability of the landowner to control and put into immediate operation the required means for the control or containment of such noxious weeds including necessary destruction of crops; and

(c) Serve individual notice on the landowner and where possible on the operator of the land prior to the entry upon such land declaring a quarantine and specifying the date of the proposed entry and the proposed cost to the violator, and advise the same person of the completion of the control operation and the required reimbursement thereof. If the landowner is not known or readily available, notice shall be deemed satisfied after eight (8) days from postmark of registered mail to the address as shown on the assessment roll of the county; and

(d) Stop movement of noxious weed infested items. Such items shall not be moved from designated premises except in accordance with the written permission of the county control authority; and

(e) Purchase or provide for equipment and materials for the control of noxious weeds, independently or in combination with other control authorities, and use such equipment or materials upon any lands within the state; and

(f) Levy annually upon all taxable property of said county a tax for the control of noxious weeds to be collected and apportioned to the county noxious weed fund, which levy shall not exceed six hundredths per cent (.06%) of the market value for assessment purposes of said property in said county~~, and which levy shall be exempt from the provisions of sections 63-923 and 63-2220, Idaho Code~~; and

(g) Utilize any other methods or local options that may be available for the purpose of funding a coordinated noxious weed control program on the county level; and

(h) Use the noxious weed fund, which may be a revolving fund, only for noxious weed purposes. In addition to any appropriated funds designated for the control of noxious weeds, the county control authority shall have the power to receive and disburse funds from any source as a continuing appropriation at any time for the purpose of controlling noxious weeds; and

(i) Propose and accept plans for noxious weed control which may be extended over a period of years by agreement with the landowner. The agreement shall be a contract and the control authority shall have the power and duty to enforce the terms of any such agreement; and

(j) Designate weeds, in addition to the state noxious weed list, as noxious within their county, but such additional species are not subject to provisions of the state noxious weed laws.

(2) The county weed superintendent is authorized to:

(a) Enter upon all lands within the county where there are noxious weeds to ascertain conditions, if a reasonable attempt has been made to contact the landowner and where possible the operator of the land prior to entry and there is probable cause for entry; and

(b) Stipulate items as requiring treatment to prevent dissemination of noxious weeds, in accordance with the applicable regulations.

SECTION 4. That Section 25-2401, Idaho Code, be, and the same is hereby amended to read as follows:

25-2401. COMMISSIONERS MAY CREATE HERD DISTRICTS. (1) The board of county commissioners of each county in the state shall have power to create, modify or eliminate herd districts within such county as hereinafter provided; and when such district is so created, modified or eliminated, the provisions of this chapter shall apply and be enforceable therein. On and after January 1, 1990, no county shall regulate or otherwise control the running at large of horses, mules, asses, cattle, sheep or goats within the unincorporated areas of the county unless such regulation or control is provided by the creation of a herd district pursuant to the provisions of this chapter, except as provided by subsection (2) of this section. The provisions of this chapter shall not apply to any herd district or herd ordinance in full force and effect prior to January 1, 1990, but shall apply to any modification thereof.

(2) A panel of five (5) members may be created in a county, the members of which shall be appointed as follows: two (2) members by appointment of the board of county commissioners; two (2) members by appointment of a local, county or state livestock association or associations; and the fifth member, by concurrent appointment of the first four (4) appointees. Only if a majority of said panel, after a public hearing held with notice as prescribed by law, concludes that the creation, modification or elimination of a herd district is insufficient to control or otherwise regulate the movement of livestock in an area, the board of county commissioners shall have power to establish such control by ordinance, provided that the cost of construction and maintenance of any fencing or cattle guards required by said ordinance shall be paid by the county current expense fund. Notwithstanding any provision of law to the contrary, a county shall have the authority to levy an annual property tax of not to exceed two hundredths percent (.02%) of market value for assessment purposes on taxable real property within the county, and the revenues derived therefrom shall not be used for any other purpose. ~~Such special levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.~~

SECTION 5. That Section 25-2402, Idaho Code, be, and the same is hereby amended to read as follows:

25-2402. PETITION AND REQUIREMENTS FOR DISTRICT. (1) A majority of the owners of taxable real property, including corporations, in any area or district described by metes and bounds and who are also domiciled and resident in the state of Idaho, may petition the board of county commissioners in writing to create, modify or eliminate a herd district in such area; provided, that in the case of a petition for the purpose of eliminating an existing district or any portion thereof, said area must be contiguous to open range. Such petition shall describe the boundaries of the said proposed herd district, and shall designate what animals of the species of horses, mules, asses, cattle, swine, sheep and goats it is desired to prohibit from running at large, also prohibiting said animals from being herded upon the public highways in such district; and shall designate that the herd district shall not apply to nor cover livestock, excepting swine, which shall roam, drift or stray from open range into the district unless the district shall be inclosed by lawful fences and cattle

guards as needed in roads penetrating the district so as to prevent livestock, excepting swine, from roaming, drifting or straying from open range into the district; and may designate the period of the year during which it is desired to prohibit such animals from running at large, or being herded on the highways. Such petition may also state the conditions and location(s), if any, for the construction of legal fences and cattle guards which may be required to prohibit the running at large of livestock within the interior of the proposed district; provided, that if such petition does not address the issue of interior fencing and cattle guards, the board of county commissioners shall have the power to establish such internal fencing requirements upon their approval of a proposed district. Provided, any herd district heretofore established shall retain its identity, geographic definition, and remain in full force and effect, until vacated or modified hereafter as provided by section 25-2404, Idaho Code.

(2) Notwithstanding any other provision of law to the contrary, no herd district shall:

(a) Contain any lands owned by the United States of America or the state of Idaho, upon which the grazing of livestock has historically been permitted.

(b) Result in the state, a county, a city or a highway district being held liable for personal injury, wrongful death or property damage resulting from livestock within the public right-of-way.

(c) Prohibit trailing or driving of livestock from one location to another on public roads or recognized livestock trails.

(3) Open range means all uninclosed lands outside cities and villages upon which by custom, license or otherwise, livestock, excepting swine, are grazed or permitted to roam.

(4) The owners of taxable real property within the herd district shall:

(a) Pay the costs, including on private land, of constructing and maintaining legal fences as required on the district's border with open range so as to prevent livestock, excepting swine, from roaming, drifting or straying from open range into the district.

(b) Pay the costs, including on private land, of constructing and maintaining cattle guards as required on the district's border with open range so as to prevent livestock, excepting swine, from roaming, drifting or straying from open range into the district; except that the costs of maintaining a cattle guard located on a public right-of-way shall thereafter be paid by the state, county, city or highway district responsible for maintaining said right-of-way.

(c) Pay seventy-five percent (75%) of the costs, including on private land, of constructing legal fences required, at the time of the creation or modification of the district only, to control livestock within the interior of the district; provided that (i) the costs of maintaining such fences shall thereafter be paid by the owner(s) of the land on which the fencing is constructed as prescribed by chapter 1, title 35, Idaho Code, and that (ii) the costs of constructing and maintaining fences on livestock operations which come into existence after the creation or modification of the district shall be paid by owner(s) of the land on which the fencing is constructed as prescribed by chapter 1, title 35, Idaho

Code.

(d) Pay seventy-five percent (75%) of the costs, including on private land, of constructing legal cattle guards required, at the time of the creation or modification of the district only, to control livestock within the interior of the district; provided that (i) the costs of maintaining a cattle guard located on a public right-of-way shall thereafter be paid by the state, county, city or highway district responsible for maintaining the public right-of-way on which the cattle guard is located, or, in the case of a cattle guard located on private land, by the owner(s) of the land on which the cattle guard is constructed as prescribed by chapter 1, title 35, Idaho Code, and that (ii) the costs of constructing and maintaining cattle guards on livestock operations which come into existence after the creation or modification of the district shall be paid by the owner(s) of the land on which the cattle guard is constructed as prescribed by chapter 1, title 35, Idaho Code.

(e) In the case of a new herd district created contiguous to an existing herd district, there shall be no obligation to maintain a legal fence or cattle guards on the border between the new district and the existing district, except to the extent that said fence or cattle guards, or any portion thereof, may be required to control movement of livestock on the interior of the district. In the case of a modification of an existing herd district which alters its borders with open range, there shall be no obligation to maintain a legal fence or cattle guards on its previous border with open range, except to the extent that said fence or cattle guards, or any portion thereof, may be required to control movement of livestock on the interior of the district.

(5) In the case of interior fencing and cattle guards as described in subsections (4)(c) and (d), the owner(s) of private land on which such fencing or cattle guards are constructed shall pay twenty-five percent (25%) of the total cost of their construction, provided that the share of that total cost to be paid by each individual landowner shall be as prescribed by chapter 1, title 35, Idaho Code.

(6) Notwithstanding any provision of law to the contrary, a county shall have the authority to and shall levy an annual property tax not to exceed six hundredths percent (.06%) of market value for assessment purposes on taxable real property within the district for the costs of constructing and maintaining the legal fencing and cattle guards required by the creation or modification of such a herd district; provided that a herd district created on or after January 1, 1990, shall have no force and effect unless and until such a levy is approved, and provided that the revenues derived therefrom may not be used for any other purpose. ~~Such special levy shall be exempt from the limitation--imposed by section 63-923(i), Idaho Code.~~ In the case of a new herd district contiguous to an existing herd district, said levy shall apply, for purposes of constructing legal fences and cattle guards required by the new district, only to owners of taxable real property residing within the new district; but for purposes of maintaining thereafter fences as required on the district's border with open range, shall apply to owners of taxable real property residing

within both the new district and the existing district to which it is contiguous.

SECTION 6. That Section 27-121, Idaho Code, be, and the same is hereby amended to read as follows:

27-121. LEVIES BY CEMETERY MAINTENANCE BOARD COMMISSIONERS. (1) At the last regular meeting of the cemetery maintenance board prior to the second Monday of September in each year, the cemetery board of each cemetery maintenance district may levy for cemetery purposes a property tax in each cemetery maintenance district of not more than four hundredths of one percent (.04%) of the market value for assessment purposes on all taxable property within the cemetery maintenance district. Upon the levy being made by the cemetery maintenance board under this section, it shall be the duty of the secretary of the district to transmit to the county auditor and county assessor and state board of equalization, certified copies of the resolution providing for such levy as provided in section 63-~~915~~808, Idaho Code. Said taxes shall be collected as provided in section 63-~~918~~812, Idaho Code.

(2) An additional property tax of not more than six hundredths of one percent (.06%) of the market value for assessment purposes on all taxable property within the cemetery maintenance district may be levied by the cemetery board for the sole and express purpose of acquisition of burial ground. The proceeds from such levy may be accumulated by the board for future acquisitions, or pledged to the repayment of indebtedness incurred pursuant to section 27-122, Idaho Code, provided, that the proposal to levy such additional amount of property tax, or portion thereof, shall have been approved by at least two-thirds (2/3) of the qualified electors residing in the cemetery maintenance district at a previous election held in accordance with the provisions of section 34-106, Idaho Code.

SECTION 7. That Section 31-870, Idaho Code, be, and the same is hereby amended to read as follows:

31-870. FEES FOR COUNTY SERVICES. (1) Notwithstanding any other provision of law, a board of county commissioners may impose and collect fees for those services provided by the county which would otherwise be funded by ad valorem tax revenues. The fees collected pursuant to this section shall be reasonably related to, but shall not exceed, the actual cost of the service being rendered. Taxing districts other than counties may impose fees for services as provided in section 63-~~2201A~~1311, Idaho Code.

(2) The board of county commissioners may establish and provide for the collection of a solid waste fee in accordance with a request made pursuant to this section, and such fee shall be certified and collected in the same manner provided by law for the collection of real or personal property taxes.

SECTION 8. 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 -- SPE-

CIAL 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 an election, subject to the provisions of section 34-106, Idaho Code, or submit, at any general election, the question of creating such fund to defray the expenses of purchasing such site and erecting and furnishing such buildings, at which election only such electors may vote as are qualified to vote at elections held for the issuance of general obligation bonds, and which election shall in all respects be governed and held in the same manner as is now required by law for the holding of elections to determine the question of the issuance of general obligation bonds. If, at such election two-thirds (2/3) of the qualified voters voting at such election shall have voted to create such funds, then such board of county commissioners may annually levy the taxes for the purposes hereinbefore mentioned. Such fund shall remain intact, subject to investment as hereinafter provided, until the same shall, when augmented by the proceeds of similar levies in succeeding years, be adequate in the judgment of such board to defray the entire cost of purchasing a site and constructing the improvements aforesaid and completely furnishing the same, and no part of such fund shall be expended until complete plans and specifications have been adopted and contracts entered into insuring the completion of such purchase and construction within the limitations of such fund, nor shall the construction of any courthouse or jail be undertaken until such fund is adequate to insure the proper equipment and furnishing thereof.

(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~~802, Idaho Code, deposit any amount into the fund on an annual basis.

(3) 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; provided further, that such fund may be used to supplement the proceeds of any bonds issued pursuant to the ~~pprovisions~~ provisions of sections 31-1002 and 31-1004, Idaho Code, for the purposes aforesaid.

SECTION 9. That Section 31-1411A, Idaho Code, be, and the same is hereby amended to read as follows:

31-1411A. CONSOLIDATION OF DISTRICTS -- HEARING -- PROTEST -- ELECTION. Any fire protection district may consolidate with one (1) or more existing fire protection districts subject to the following procedure and with the following effects:

(a) If, in the opinion of the board of any fire protection district, it would be to the advantage of said district to consolidate with one (1) or more other existing fire protection districts, the said board shall cause to be prepared an agreement for consolidation which shall among other things provide:

(1) The name of the proposed consolidated fire protection district.

(2) That all property of the districts to be consolidated shall become the property of the consolidated district.

(3) That all debts of the districts to be consolidated shall become the debts of the consolidated district.

(4) That the existing commissioners of the districts to be consolidated shall be the commissioners of the consolidated district until the next election, said election to be held pursuant to the terms of section 31-1410, Idaho Code, at which three (3) commissioners shall be elected. Commissioners from fire protection subdistricts one (1) and two (2) shall be elected for terms of four (4) years, and the commissioner from fire protection subdistrict three (3) shall be elected for a term of two (2) years.

(5) That the employees of the consolidated fire protection district shall be selected from the employees of the fire protection districts being consolidated, which employees shall retain the seniority rights under their existing employment contracts.

(b) After approval of said agreement of consolidation by each of the fire protection district boards involved, the boards of commissioners of each fire protection district shall hold a hearing not less than ten (10) or more than thirty (30) days thereafter, and shall cause notice of said hearing, designating the time and place, to be published in at least one (1) issue of a newspaper of general circulation within the district not less than five (5) days prior to such hearing. Any person supporting or objecting to such petition shall be heard at such meeting, if in attendance, and at the close of such hearing said board shall approve or reject the agreement of consolidation. If each board approves the agreement of consolidation, the agreement shall become effective and the consolidation of said dis-

trict complete thirty (30) days after such approval unless within such thirty (30) days a petition signed by five per cent (5%) of the qualified electors of one of the fire protection districts objecting to such consolidation be filed with the secretary of such district. In the event of such objection, election shall be held as provided in section 31-1405, Idaho Code, except that the question shall be "consolidation of .... fire protection district, yes", or "consolidation of .... fire protection district, no", or words equivalent thereto. If more than one-half (1/2) of the votes cast are yes, the agreement shall become effective. If more than one-half (1/2) of the votes cast are no, the agreement shall be void and of no effect; and no new consolidation shall be proposed for at least six (6) months following the date of the consolidation election.

(c) Upon the agreement of consolidation becoming effective, the board of the consolidated fire protection district shall file a certified copy of the agreement with the county recorder of each county in which such district is situated, and shall comply with the provisions of section ~~63-2215~~ 63-215, Idaho Code. The consolidated district shall thereafter have the same rights and obligations as any other fire protection district organized under the statutes of this state.

SECTION 10. That Section 31-1420, Idaho Code, be, and the same is hereby amended to read as follows:

31-1420. LEVY. Each year, immediately prior to the annual county levy of taxes, the board of commissioners of each fire protection district, organized and existing under this act, may levy a tax upon all the taxable property within the boundaries of such district sufficient to defray the cost of equipping and maintaining the district, not exceeding sixteen hundredths percent (.16%) of market value for assessment purposes, provided, districts having a population in excess of two thousand five hundred (2,500) may levy a total tax of twenty-four hundredths percent (.24%) of market value for assessment purposes, to be used for the purposes of this act and for no other purpose. The levy shall be made by resolution entered upon the minutes of the board of commissioners of the fire protection district, and it shall be the duty of the secretary of the district, immediately after entry of the resolution in the minutes, to transmit to the county auditor, county assessor and state board of equalization certified copies of the resolution providing for such levy. Said taxes shall be collected as provided by section 63-~~918~~812, Idaho Code.

If two (2) or more fire protection districts consolidate into one (1) district, the provisions of section 63-~~2220~~802, Idaho Code, shall apply to the consolidated district's budget request during the first tax year following consolidation, and the current year tax rate of the district with the higher levy of any fire protection district being consolidated shall be the rate used for the purposes of section 63-~~2220~~802(1)(~~i~~a), Idaho Code.

If a fire protection district annexes territory, the provisions of section 63-~~2220~~802, Idaho Code, shall apply to that fire protection district's budget request during the first tax year following annexation, and the current year tax rate of the annexing district shall be the rate used for the purposes of section 63-~~2220~~802(1)(~~i~~a), Idaho

Code.

SECTION 11. That Section 31-1507, Idaho Code, be, and the same is hereby amended to read as follows:

31-1507. PROCEDURES FOR REDEEMING REGISTERED WARRANTS. If the board of county commissioners declares an emergency pursuant to section 31-1608, Idaho Code, the process of funding registered warrants shall conform with current banking and accounting requirements.

When necessary, the county treasurer shall identify ways of redeeming warrants, including short term borrowing from other county funds at market interest rates, until a warrant redemption levy is established as provided in section 63-~~911~~806(1), Idaho Code. To this end, the county treasurer may contact local financial institutions about currently available interim financing options. After reviewing the alternatives provided by the county treasurer, the board of county commissioners shall, by resolution, select the method of financing and the interest rate to be paid and direct the county auditor to establish the warrant redemption fund. The county treasurer shall complete necessary arrangements to secure sufficient funds to redeem registered warrants.

SECTION 12. That Section 31-1508, Idaho Code, be, and the same is hereby amended to read as follows:

31-1508. TRANSFER OF MONEYS - ORDER OF PAYMENT. The board must not transfer any money from one fund to another ~~except as permitted by section 63-914, Idaho Code,~~ nor in any manner divert the money in any fund to other uses, except in cases expressly provided and permitted by law~~, nor make any preferred creditor, nor cause any warrant to be drawn payable out of its order except on the order of the district court in cases provided by law, and the county treasurer must in all things observe these instructions~~: provided, that when any money shall have been assessed and collected in any of the counties of this state, and the same set apart as a separate fund, for special purpose, and from any cause the money in said fund shall have become inoperative for the purpose for which said fund was created, it shall be lawful for the board of county commissioners in such cases to transfer the money in said fund to such fund as the board of county commissioners may deem best. No transfer of money from one (1) county fund to another county fund shall be made upon the books of the county auditor and county treasurer unless the same is so authorized and so ordered by resolution of the board entered upon the records of its proceedings and certified copies of such resolution filed in the office of the county auditor and county treasurer.

The board shall not make any preferred creditor, nor cause any warrant to be drawn payable out of its order except on the order of the district court in cases provided by law, and the county treasurer shall in all things observe these instructions.

SECTION 13. That Section 31-1605, Idaho Code, be, and the same is hereby amended to read as follows:

31-1605. HEARING UPON BUDGET APPROPRIATIONS -- ADOPTION OF FINAL BUDGET -- FIXING OF LEVIES -- GENERAL RESERVE APPROPRIATION. On or before the Tuesday following the first Monday in September of each year the board of county commissioners shall meet at the time and place designated in said notice. Any taxpayer may appear and be heard upon any part or parts of said tentative budget. Such hearing may be continued from day to day but must be concluded by the second Monday in September. Any officer or employee in charge of any office, department, service, agency or institution of the county may be called before said board at the time the estimates for his office, department, service, agency or institution are under consideration and be examined by said board or any taxpayer concerning the expenditures made by him and the estimated expenditures for the ensuing fiscal year.

Upon the conclusion of such hearing, the county commissioners shall fix and determine the amount of the budget, which in no event shall be greater than the amount of the tentative budget or include an amount to be raised from property taxes greater than the amount advertised, and by resolution adopt the budget and enter said resolution on the official minutes of the board.

Said budget as finally adopted for the ensuing fiscal year shall specify the fund or funds against which warrants shall be issued for the expenditures so authorized, respectively, and the aggregate of expenditures authorized against any fund shall not exceed the estimated revenues to accrue to such fund during the ensuing fiscal year from sources other than taxation together with any balances and plus revenues to be derived from taxation for such ensuing fiscal year, within the limitations imposed by chapter ~~9~~ 8 of title 63, Idaho Code, or by any statutes of the state of Idaho in force and effect.

Thereafter, at the time provided by law, the board of county commissioners shall fix the levies for the ensuing fiscal year necessary to raise the amount of expenditures as determined by the adopted budget, less the total estimated revenues from sources other than taxation, including available surplus, not subject to the provisions of section 31-1605A, Idaho Code, as determined by the board, and such expenditures as are to be made with the proceeds of authorized bond issues.

During the year the county commissioners may proceed to adjust the budget as adopted to reflect the receipt of unscheduled revenue, grants, or donations from federal, state or local governments or private sources, provided that there shall be no increase in anticipated property taxes. The annual budget procedure shall be complied with as nearly as practicable before the budget may be adjusted.

The board shall also have the right to make a "general reserve appropriation," said appropriation not to exceed five per cent (5%) of the current expense budget as finally adopted, the total levy however, for current expense, including the "general reserve appropriation," to be within the limitations imposed by chapter ~~9~~ 8 of title 63, Idaho Code, or by any statutes of the state of Idaho in force and effect. In the event of any unforeseen contingency arising, which could not reasonably have been foreseen at the time of making the budget, and which shall require the expenditure of money not provided for in the budget, the board of county commissioners, by unanimous vote thereof, shall

have the right to make an appropriation from the "general reserve appropriation" to the office, department, service, agency or institution in which said contingency arises, in such amount as shall be determined by resolution of said board. Provided, however, that no appropriation may be made from the "general reserve appropriation" to any county fund which is authorized under the law to make a special levy.

SECTION 14. That Section 31-3503, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(2) Have the jurisdiction and power to provide county hospitals and public general hospitals for the county and others who are sick, injured, maimed, aged and infirm and to erect, enlarge, purchase, lease, or otherwise acquire, and to officer, maintain and improve hospitals, hospital grounds, nurses' homes, shelter care facilities and residential care homes as defined in section 39-3301, Idaho Code, superintendent's quarters, medical clinics, as that term is defined in section 39-1319, Idaho Code, medical clinic grounds or any other necessary buildings, and to equip the same, and to replace equipment, and for this purpose said boards may levy an additional tax of not to exceed six hundredths percent (.06%) of the market value for assessment purposes on all taxable property within the county. The term public general hospitals as used in this subsection shall be construed to include nursing homes.

SECTION 15. 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~~807, 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.~~

SECTION 16. 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 six hundredths percent (.06%) of the market value for assessment purposes on all of the taxable property within the district or ~~in an amount not exceeding ten (10) mills~~ which levy shall not exceed twenty hundredths percent (.20%) of market value for assessment purposes 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 section~~s 63-621 through 63-624~~ 63-804, Idaho Code. Such taxes shall be collected as provided by section 63-~~918~~812, Idaho Code, and remitted to the treasurer of the district as provided by section 63-~~2104~~1202, Idaho Code.

SECTION 17. That Section 31-4603, Idaho Code, be, and the same is hereby amended to read as follows:

31-4603. PROCEDURE FOR ESTABLISHMENT. (1) If a board of county commissioners desires to establish a county justice fund, it shall publish notice of intent to do so in conjunction with the proposed budget publication required in section 31-1604, Idaho Code, and shall depict such proposal in the proposed county budget in a manner consistent with the provisions of section 31-1603, Idaho Code.

(2) Establishment of a county justice fund shall proportionately reduce the allowable ad valorem tax charges for remaining expenses in the county current expense fund. For purposes of achieving a proportionate reduction, the following procedure shall be followed:

(a) Prior to the September budget hearing required by section 31-1604, Idaho Code, and upon the request of the board of county commissioners, the budget officer shall identify and separate the appropriations for the services and operations outlined in section 31-4602, Idaho Code, from the previous year's budget, including estimated portions of the general reserve appropriation and court-ordered expenditures for such purposes. Such figure, and the percentage that such figure constitutes of the whole of the current expense fund expenditures, shall be certified by the clerk of the county and shall be transmitted to the board of county commissioners.

(b) The board of county commissioners shall review the submittal by the clerk and shall, upon completion of such review, adopt a resolution creating a county justice fund, which resolution shall certify, to the accuracy of two (2) decimal places, the percentage that authorized justice fund appropriations in the prior budget

year are of total current expense fund appropriations for that year. If the board of county commissioners believes the previous year's budget is not typical, it may petition the state tax commission for an administrative ruling setting the percentage of justice fund expenditures based upon a more extended history of such budgeted expenditures.

(c) The percentage derived by completion of the steps called for in subsection (2)(b) of this section shall be multiplied by the total of ad valorem tax charges levied to support the current expense fund as a whole. The product of this multiplication shall be subtracted from the entire ad valorem tax charge for the current expense fund and shall constitute the justice fund allocation. The remainder, after the justice fund allocation has been subtracted, shall constitute a new ad valorem tax base for the current expense fund, which current expense and justice fund bases shall continue to be subject to the provisions of section 63-~~2220~~802, Idaho Code. Allowable ad valorem tax charges for the current expense fund in the year the justice fund is created shall be determined upon the base established in this section. In subsequent years, after a county has established a justice fund, the maximum levy authority for the current expense fund shall be twenty hundredths percent (.20%) of market value for assessment purposes as provided for in section 63-~~903~~805, Idaho Code.

(3) Additional revenues, other than those derived from ad valorem taxation, shall be allocated to the current expense fund or the justice fund, respectively, in accordance with their association with the functions performed by offices supported by the respective funds. Where revenues sources are not clearly attributable to either justice or current expense fund activities, they shall be apportioned to the current expense fund or justice fund by the board of county commissioners to meet the greatest funding need in each local jurisdiction.

SECTION 18. That Section 31-4706, Idaho Code, be, and the same is hereby amended to read as follows:

31-4706. BUDGET OF FUNDS FOR COUNTY MUSEUM PURPOSES -- MAINTENANCE OF IDLE PROPERTY. For the purpose of determining what funds must be raised by taxes for county museum purposes, the county museum board shall meet at such time as may be provided by law for the preparation of budgets, and shall make a budget of the amounts required for museum purposes, including all salaries to be paid for the current year, and shall deduct therefrom any balance remaining in its treasury, and shall then certify to the board of county commissioners the amount of said budget. The board of county commissioners may make a levy upon all taxable property in the county in the amount requested by the county museum budget. No levy for the purposes of this chapter shall exceed three-hundredths percent (.03%) on each dollar of market value for assessment purposes of taxable property in the county. When such taxes have been collected, the same shall be paid to the treasurer of the county museum board to be used for the purposes authorized by this chapter. Upon the creation and appointment of the museum board by the county commissioners, it hereby becomes a taxing unit separate and distinct from any other taxing unit or tax levy within the county, and

the district's first levy shall be subject to the provisions of section 63-~~2220(1)(iii)~~802(1)(c), Idaho Code, under the provisions of the Idaho budget law and as such is empowered to issue tax anticipation notes or warrants as provided by law for maintaining, carrying on, conducting, payment of obligations and all other necessary expenses, incurred or to be incurred in maintaining a museum. It may be the duty of the county commissioners of any county, where property for county museum purposes is located, to levy an amount sufficient to maintain and protect such museum grounds and property.

SECTION 19. That Section 33-405A, Idaho Code, be, and the same is hereby amended to read as follows:

33-405A. RESIDENCE DEFINED. a. Residence, for the purpose of voting in school elections, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence.

b. In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, situs of residence for which the exemption in section 63-~~105DD~~602G, Idaho Code, is filed, and motor vehicle registration.

c. A qualified elector who has left his home and gone into another state or territory, county, school district or in the event of trustee election another district trustee zone for a temporary purpose only shall not be considered to have lost his residence.

d. A qualified elector shall not be considered to have gained a residence in any school district or, in the event of a trustee election, any trustee zone of a school district of this state into which he comes for temporary purposes only, without the intention of making it his home but with the intention of leaving it when the elector has accomplished the purpose that brought him there.

e. If a qualified elector moves to another school district or trustee zone or to another state or any of the other territories, with the intention of making it his permanent home, he shall be considered to have lost his residence in the school district or trustee zone in which he had previously resided.

SECTION 20. That Section 33-802, Idaho Code, be, and the same is hereby amended to read as follows:

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

1. Bond, Interest and Judgment Obligation Levies. Such levies as shall be required to satisfy all maturing bond, bond interest, and judgment obligations~~, which levies shall be exempt from the limitation~~

~~imposed-by-section-63-923(1),-Idaho-Code.~~

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

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

4. Supplemental Maintenance and Operation Levies. No levy in excess of the levy permitted by subsection 2. or 3. of this section shall be made by a noncharter school district unless such a supplemental levy in a specified amount and for a specified time not to exceed two (2) years be first authorized through an election held pursuant to chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election~~,-which-supplemental-levy shall-be-exempt-from-the--limitation--imposed--by--section--63-923(1), Idaho-Code~~. A levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees in the second year.

5. Charter District Supplemental Maintenance and Operation. Levies pursuant to the respective charter of any such charter district shall be first authorized through an election held pursuant to chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election. ~~If-so-authorized,-and-if-not-in-conflict-with-any-provision-of-its-charter,-all-levies-made-thereafter-by such-charter-district-in-excess-of-the-levies-authorized-in-subsection 2--of-this-section-shall-be-exempt-from-the-limitation-imposed-by-section-63-923(1),-Idaho-Code.~~

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

7. The board of trustees of any school district that has, for at least seven (7) consecutive years, been authorized through an election held pursuant to chapter 4, title 33, Idaho Code, to certify a supplemental levy that has annually been equal to or greater than twenty percent (20%) of the total general maintenance and operation fund, may submit the question of an indefinite term supplemental levy to the

electors of the school district. Such question shall clearly state the dollar amount that will be certified annually and that the levy will be for an indefinite number of years. The question must be approved by a majority of the district electors voting on the question in an election held pursuant to chapter 4, title 33, Idaho Code~~, which supplemental levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code~~. The levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees during any fiscal year.

SECTION 21. That Section 33-804, Idaho Code, be, and the same is hereby amended to read as follows:

33-804. SCHOOL PLANT FACILITIES RESERVE FUND LEVY. In any school district in which a school plant facilities reserve fund has been created, either by resolution of the board of trustees or by apportionment to new districts according to the provisions of section 33-901, Idaho Code, to provide funds therefor the board of trustees shall submit to the qualified school electors of the district the question of a levy not to exceed four-tenths of one percent (.4%) of market value for assessment purposes in each year, as such valuation existed on December 31 of the previous year, for a period not to exceed ten (10) years.

The question of a levy to be submitted to the electors of the district and the notice of such election shall state the dollar amount proposed to be collected each year during the period of years in each of which the collection is proposed to be made, the percentage of votes in favor of the proposal which are needed to approve the proposed dollar amount to be collected, and the purposes for which such funds shall be used. Said notice shall be given, the election shall be conducted and the returns canvassed as provided in chapter 4, title 33, Idaho Code; and the dollar amount to be collected shall be approved only if:

1. Fifty-five percent (55%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of less than two-tenths of one percent (.2%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election;

2. Sixty percent (60%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of two-tenths of one percent (.2%) or more and less than three-tenths of one percent (.3%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election; or

3. Two-thirds (2/3) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of three-tenths of one percent (.3%) or more of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election.

If the question be approved, the board of trustees may make a levy, not to exceed four-tenths of one percent (.4%) of market value

for assessment purposes as such valuation existed on December 31 of the previous year, in each year for which the collection was approved, sufficient to collect the dollar amount approved and may again submit the question at the expiration of the period of such levy, for the dollar amount to be collected during each year, and the number of years which the board may at that time determine. Or, during the period approved at any such election, if such period be less than ten (10) years or the levy be less than four-tenths of one percent (.4%) of market value for assessment purposes as such valuation existed on December 31 of the previous year, the board of trustees may submit to the qualified school electors in the same manner as before, the question whether the number of years, or the levy, or both, be increased, but not to exceed the maximum herein authorized. If such increase or increases be approved by the electors, the terms of such levy shall be in lieu of those approved in the first instance, but disapproval shall not affect any terms theretofore in effect.

Any bonded indebtedness incurred in accordance with the provisions of section 33-1103, Idaho Code, subsequent to the approval of a plant facilities reserve fund levy shall not affect the terms of that levy for any time during which such levy is in effect.

~~Levies-approved-under-the-provisions--of--this--section--shall--be exempt--from--the-limitation-imposed-in-section-63-923(1),-Idaho-Code, and-from-the-requirements-of-sections-63-2224-through--63-2226,--Idaho Code.~~

SECTION 22. That Section 33-805, Idaho Code, be, and the same is hereby amended to read as follows:

33-805. SCHOOL EMERGENCY FUND LEVY. Before the second Monday of September in each year, the board of trustees of any school district which qualifies under the provisions of this section may certify its need hereunder to the board of county commissioners in each county in which the district may lie, and request a school emergency fund levy upon all taxable property in the district.

The board of trustees shall compute the number of pupils in average daily attendance in the schools of the district as of such date, and if there be pupils in average daily attendance above the number in average daily attendance for the same period of the school year immediately preceding the board shall:

1. Divide the total of the foundation program allowance based on said last annual report by the total number of pupils in average daily attendance shown thereon;

2. Multiply the quotient so derived by the number of additional pupils in average daily attendance.

The number of pupils in average daily attendance for each period and the amount so computed shall be certified to the board of county commissioners of the county in which the district lies.

In the case of a joint district, the board of trustees shall certify to the board of county commissioners of each county in which the district lies, to each, that proportion of the amount computed, as hereinabove, as the assessed value of taxable property within the district situate in each such county bears to the total assessed value of all taxable property in the district.

After receiving the amounts certified, as hereinabove provided, the board, or boards, of county commissioners shall determine the levy according to section 63-~~907~~805(3), Idaho Code, as amended; and the proceeds of any such levy shall be credited to the general fund of the district.

~~Any--levy--certified-under-the-provisions-of-this-section-shall-be exempt-from-the-limitation-imposed-in-section-63-923(1),--Idaho--Code, and--from--the-requirements-of-sections-63-2224-through-63-2226,-Idaho Code.-Provided-however,-that-t~~The school district shall advertise its intent to seek an emergency levy pursuant to this section by publishing in at least the newspaper of largest paid circulation published in the county of the district, or if there is no such newspaper, then in a newspaper published nearest to the district where the advertisement is required to be published. For purposes of this section, the definition of "newspaper" shall be as established in sections 60-106 and 60-107, Idaho Code; provided further that the newspaper of largest circulation shall be established by the statement of average annual paid weekday circulation listed on the newspaper's sworn statement of ownership that was filed with the United States post office on a date most recently preceding the date on which the advertisement required in this section is to be published. The advertisement shall be run when the school district ascertains that it will request an emergency school fund levy as provided in this section and shall be published once a week for two (2) weeks following action by the board of trustees.

The form and content of the notice shall be substantially as follows:

NOTICE OF PROPERTY TAX INCREASE BY SCHOOL BOARD

The (name of the school district) has proposed to increase the amount of ad valorem tax dollars it collects by certifying a school emergency fund levy pursuant to section 33-805, Idaho Code, for the period ..... to ..... . The total amount of dollars to be collected pursuant to this levy is estimated to be ..... . The amount of dollars to be collected pursuant to this levy on a typical home of $50,000 taxable value of last year is estimated to be ..... . The amount of dollars to be collected pursuant to this levy on a typical farm of $100,000 taxable last year is estimated to be ..... . The amount of dollars to be collected pursuant to this levy on a typical business of $200,000 taxable value of last year is estimated to be ..... .

CAUTION TO TAXPAYER: The amounts shown in this schedule do NOT reflect tax charges that are made because of voter approved bond levies, override levies, supplemental levies, or levies applicable to newly annexed property. Also the amounts shown in this schedule are an estimate only and can vary with the amount of dollars and the levy amount certified and the taxable value of individual property.

SECTION 23. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

1. State 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~~ postsecondary 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~~315, Idaho Code, and four-tenths percent (.4%) during fiscal year 1994-95 and each year thereafter, of the coopera-

tive 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. 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 edu-

cational 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 24. That Section 33-1002D, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) (a) In the case of a school district that had a property tax computation ratio of not less than four-tenths of one percent (.4%) in tax year 1994, that school district shall receive from the sales tax receipts transferred as provided in section 63-3638,

Idaho Code, an amount equal to the greater of the district's actual or adjusted market value for assessment purposes as such valuation existed on December 31 of the previous calendar year multiplied by one-tenth of one percent (.1%).

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

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

(b) If in any year the charter district's property tax computation ratio used to calculate its maintenance and operation budget is increased above the limit specified in this subsection the district shall not be eligible for the distribution pursuant to subsection (1) of this section for that year.

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

(4) Distributions calculated as provided in this section shall be made to school districts of this state in two (2) equal installments on the due dates as specified in section 63-~~1102~~2903(1), Idaho Code, for the property taxes being replaced.

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

SECTION 25. That Section 33-1003, Idaho Code, be, and the same is hereby amended to read as follows:

33-1003. SPECIAL APPLICATIONS OF EDUCATIONAL SUPPORT PROGRAM. 1. Decrease in Average Daily Attendance. -- Any school district which has a decrease in total average daily attendance of one percent (1%) of its average daily attendance in the then current school year from the total average daily attendance used for determining the allowance in the educational support program for the school year immediately preceding, the allowance of funds from the educational support program may be based on the average daily attendance of the school year immediately preceding, less one percent (1%). When this provision is applied, the decrease in average daily attendance shall be proportionately distributed among the various categories of support units that are appropriate for the district.

2. Application of Support Program to Separate Schools in District.

a. Separate Elementary School. -- Any separate elementary school shall be allowed to participate in the educational support program as though the school were the only elementary school operated by the district.

b. Hardship Elementary School. -- Upon application of the board of trustees of a school district, the state board of education is empowered to determine that a given elementary school or elementary schools within the school district, not otherwise qualifying, are entitled to be counted as a separate elementary school as defined in section 33-1001, Idaho Code, when, in the discretion of the state board of education, special conditions exist warranting the retention of the school as a separate attendance unit and the retention results in a substantial increase in cost per pupil in average daily attendance above the average cost per pupil in average daily attendance of the remainder of the district's elementary grade school pupils.

c. Separate Secondary School. -- Any separate secondary school shall be allowed to participate in the educational support program as though the school were the only secondary school operated by the district.

d. Minimum Pupils Required. -- Any elementary school having less than ten (10) pupils in average daily attendance shall not be allowed to participate in the state or county support program unless the school has been approved for operation by the state board of education.

3. Remote Schools. -- The board of trustees of any Idaho school district which operates and maintains a school which is remote and isolated from the other schools of the state because of geographical or topographical conditions may petition the state board of education to recognize and approve the school as a remote and necessary school. The petition shall be in form and content approved by the state board of education and shall provide such information as the state board of education may require. Petitions for the recognition of a school as a remote and necessary school shall be filed annually at least ninety (90) days prior to the date of the annual meeting of the board of trustees as established in section 33-510, Idaho Code.

Within forty-five (45) days after the receipt of a petition for the recognition of a remote and necessary school, the state board of education shall either approve or disapprove the petition and notify

the board of trustees of its decision. Schools which the state board of education approves as being necessary and remote shall be allowed adequate funding within the support program for an acceptable educational program for the students of the school. In the case of a remote and necessary secondary school, grades 7-12, the educational program shall be deemed acceptable when, in the opinion of the state board of education, the accreditation standard relating to staff size, established in accordance with section 33-119, Idaho Code, has been met. The final determination of an acceptable program and adequate funding in the case of a remote and necessary elementary school shall be made by the state board of education.

4. Support ~~p~~Program ~~w~~When ~~d~~District ~~b~~Boundaries are ~~c~~Changed.

a. In new districts formed by the division of a district, the support program computed for the district divided in its last year of operation, shall be apportioned to the new districts created by the division, in the proportion that the average daily attendance of pupils, elementary and secondary combined, residing in the area of each new district so created, is to the average daily attendance of all pupils, elementary and secondary combined, in the district divided in its last year of operation before the division.

b. When boundaries of districts are changed by excision or annexation of territory, the support program of any district from which territory is excised for the last year of operation before such excision shall be divided, and apportioned among the districts involved, as prescribed in subsection 4a. hereof.

c. In new districts formed by consolidation of former districts, the support program allowance for a seven (7) year period following the formation of the new district, shall not be less than the combined support program allowances of the component districts in the last year of operation before consolidation.

5. For the fiscal year which commences on July 1, 1986, and for each succeeding fiscal year, any school district whose adjusted market value for assessment purposes decreases forty percent (40%) or more from the previous year's adjusted market value for assessment purposes as such valuation existed on December 31, is eligible to receive an adjustment to its educational support program entitlement, subject to qualifications as follows:

(a) The adjusted market value for assessment purposes has decreased forty percent (40%) or more from the previous year's adjusted market value for assessment purposes as such valuation existed on December 31; and

(b) The school levy to be certified for the general maintenance and operation fund shall be no less than four-tenths of one percent (.4%); and

(c) The revenue generated by the four-tenths of one percent (.4%) tax levy is less than what could have been authorized under the provisions of section 63-~~2220~~802(1)~~(i)~~(a), Idaho Code; and

(d) An eligible school district has made application to the state department of education for an adjustment to entitlement from the state educational support program on or before June 1 of the fiscal year. Such application must document the need for additional funds and must include a district plan to minimize impact of a

reduced local tax base.

The application for adjustment to the educational support program shall be reviewed by the state department of education and any adjustment shall not be greater than fifty percent (50%) of the difference between the maximum revenue authorized under section 33-802(2)(a), Idaho Code, and the revenue that could have been authorized under the provisions of section 63-~~2220~~802, Idaho Code.

SECTION 26. That Section 33-1009, Idaho Code, be, and the same is hereby amended to read as follows:

33-1009. PAYMENTS FROM THE PUBLIC SCHOOL INCOME FUND.

1. a. Payments of the state general account appropriation for public school support shall be made each year by the state board of education to the public school districts of the state in five (5) payments. Payments to the districts shall be made not later than the fifteenth day of August, the first day of October, the fifteenth day of November, the fifteenth day of February, and the fifteenth day of May each year. Each payment by the state board of education shall be approximately twenty percent (20%) of the total general account appropriation for the fiscal year. Amounts apportioned due to a special transfer to the public school income fund to restore or reduce a deficiency in the prior year's transfer pursuant to subsection 4. of this section shall not be subject to this limitation.

b. Payments of moneys, other than the state general account appropriation, that accrue to the public school income fund shall be made by the state board of education to the school districts of the state on the fifteenth day of November, February, May and July each year. The total amount of such payments shall be determined by the state department of education and shall not exceed the amount of moneys available and on deposit in the public school income fund at the time such payment is made.

c. Amounts apportioned due to a special transfer to the public school income fund to restore or reduce a deficiency in the prior year's transfer pursuant to subsection 4. of this section shall not be subject to the limitation imposed by paragraphs a. and b.

2. Payments made to the school districts in August, October and November are advance payments for the current year and will be based upon payments from the public school income fund for the preceding school year. Each school district shall receive its proportionate share of the advance payments in the same ratio that its total payment for the preceding year was to the total payments to all school districts for the preceding year.

3. No later than the fifteenth day of February in each year, the state department of education shall compute the state distribution factor based on the total average daily attendance for the first semester of the then current school year. The factor will be used in payments of state funds in February and May.

As of the thirtieth day of June of each year the state department of education shall determine final payments to be made on July fifteenth next succeeding to the several school districts from the public school income fund for the school year ended June 30. The July pay-

ments shall take into consideration:

a. the average daily attendance of the several school districts for the twenty-eight (28) best weeks of the school year completed not later than the thirtieth of June,

b. all funds available in the public school income fund for the fiscal year ending on the thirtieth of June,

c. all payments distributed for the current fiscal year to the several school districts,

d. payments made or due for the transportation support program and the exceptional education support program. The state department of education shall apportion and direct the payment to the several school districts the moneys in the public school income fund in each year, taking into account the advance made under subsection 2. of this section, in such amounts as will provide in full for each district its support program, and not more than therefor required, and no school district shall receive less than fifty dollars ($50.00).

4. If the full amount appropriated from the general account by the legislature is not transferred to the public school income fund by the end of the fiscal year, the deficiency resulting therefrom shall either be restored or reduced through a special transfer from the general account in the first sixty (60) days of the following fiscal year, or shall be calculated in computing district levies, and any additional levy shall be certified by the state superintendent of public instruction to the board of county commissioners and added to the district's maintenance and operation levy~~, and the additional levy shall be exempt from the limitations imposed by section 63-923(1), Idaho Code~~. If the deficiency is restored or reduced by special transfer, the amount so transferred shall be in addition to the amount appropriated to be transferred in such following fiscal year, and shall be apportioned to each school district in the same amount as each would have received had the transfer been made in the year the deficiency occurred. The state department of education shall distribute to the school district the full amount of the special transfer as soon as practical after such transfer is made. In making the levy computations required by this subsection the state department of education shall take into account and consider the full amount of money receipted into the public school income fund from all sources for the given fiscal year. Deficits in the transfer of the appropriated amount of general account revenue to the public school income fund shall be reduced by the amount, if any, that the total amount receipted from other sources into the public school income fund exceeds the official estimated amount from those sources. The official estimate of receipts from other sources shall be the total amount stated by the legislature in the appropriation bill.

5. Any apportionments in any year, made to any school district, which may within the succeeding three (3) year period be found to have been in error either of computation or transmittal, may be corrected during the three (3) year period by reduction of apportionments to any school district to which over-apportionments may have been made or received, and corresponding addition to apportionments to any school district to which under-apportionments may have been made or received.

SECTION 27. That Section 33-1103, Idaho Code, be, and the same is hereby amended to read as follows:

33-1103. DEFINITIONS -- BONDS -- LIMITATION ON AMOUNT -- ELECTIONS TO AUTHORIZE ISSUANCE. For the purposes of this chapter the following definitions shall have the meanings specified: "Market value for assessment purposes" means the amount of the last preceding equalized assessment of all taxable property within the school district on the tax rolls completed and available as of the date of approval by the electorate in the school bond election. "Aggregate outstanding indebtedness" means the total sum of unredeemed outstanding bonds, minus all moneys in the bond interest and redemption fund or funds accumulated for the redemption of such outstanding bonds, and minus the sum of all taxes levied for the redemption of such bonds, with the exception of that portion of such tax levies required for the payment of interest on bonds, which taxes remain uncollected. "Issue," "issued," or "issuance" mean a formal delivery of bonds to any purchaser thereof and payment therefor to the school district.

The board of trustees of any school district, upon approval of a majority thereof, may submit to the qualified school district electors of the district the question as to whether the board shall be empowered to issue negotiable coupon bonds of the district in an amount and for a period of time to be named in the notice of election.

An elementary school district which employs not less than six (6) teachers, or a school district operating an elementary school or schools, and a secondary school or schools, or issuing bonds for the acquisition of a secondary school or schools, may issue bonds in an amount not to exceed five per centum (5%) of the market value for assessment purposes thereof, less the aggregate outstanding indebtedness; and no other school district shall issue bonds in an amount to exceed at any time two per centum (2%) of the market value for assessment purposes thereof less the aggregate outstanding indebtedness. The market value for assessment purposes, the aggregate outstanding indebtedness and the unexhausted debt-incurring power of the district shall each be determined as of the date of approval by the electors in the school bond election.

Notice of the bond election shall be given, the election shall be conducted and the returns thereof canvassed, and the qualifications of electors voting or offering to vote shall be, as provided in sections 33-401--33-406, Idaho Code.

The question shall be approved only if the percentage of votes cast at such election were cast in favor thereof is that which now, or may hereafter be, set by the Constitution of the State of Idaho. Upon such approval of the issuance of bonds, the same may be issued at any time within two (2) years from the date of such election.

~~Levies required to satisfy all maturing bond and bond interest obligations shall be exempt from the limitation imposed by section 63-923(i), Idaho Code.~~

SECTION 28. That Section 33-1114, Idaho Code, be, and the same is hereby amended to read as follows:

33-1114. LEVY FOR LIQUIDATION OF BONDED INDEBTEDNESS. Whenever it

shall appear that the board of trustees of any school district has failed to certify to the board of county commissioners the levy required in section 33-802, Idaho Code, said board of county commissioners shall, in addition to all other levies set by them, set levies sufficient to meet all accruing bond, bond interest and judgment obligations of the district maturing during the year when such levies shall be collected and paid.

~~Such levies shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.~~

SECTION 29. That Section 33-1408, Idaho Code, be, and the same is hereby amended to read as follows:

33-1408. SPECIAL LEVY FOR TUITION. Any school district is hereby authorized to make a levy above the maintenance and operation levy otherwise authorized by law for the purpose of paying tuition costs of its students who, under authorization of the board of trustees of the district, attend school in another district either in or out of Idaho, except for those costs reimbursed by the state under border contracts. ~~Any levy made under the provisions of this section shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, and from the provisions of section 63-2220, Idaho Code.~~

SECTION 30. That Section 33-2101A, Idaho Code, be, and the same is hereby amended to read as follows:

33-2101A. JUNIOR COLLEGE SHALL MEAN COMMUNITY COLLEGE. Notwithstanding any other provision of law, in sections 21-805, 21-806, 21-809, 23-404, 31-808, 33-101, 33-107, 33-601, 33-1252, 33-2101, 33-2102, 33-2103, 33-2104, 33-2105, 33-2106, 33-2107, 33-2107A, 33-2107B, 33-2107C, 33-2108, 33-2109A, 33-2110, 33-2110A, 33-2110B, 33-2111, 33-2112, 33-2113, 33-2114, 33-2115, 33-2116, 33-2117, 33-2118, 33-2119, 33-2121, 33-2122, 33-2123, 33-2124, 33-2125, 33-2126, 33-2130, 33-2135, 33-2137, 33-2138, 33-2139, 33-2141, 33-2142, 33-2143, 33-2144, 33-2211, 33-3716, 33-3717, 33-4001, 33-4003, 33-4004, 33-4006, 33-4201, 33-4306, 33-4315, 46-314, 50-1405, 50-1721, 54-2029, 57-1105A, ~~59-1332B~~ 59-1324, ~~59-1336~~ 59-1371, ~~59-1340~~ 59-1374, ~~63-621,~~ 67-2320, 67-2322, 67-5309C and 67-5332, Idaho Code, the term "junior college" shall mean and shall be denoted as "community college."

SECTION 31. That Section 33-2110A, Idaho Code, be, and the same is hereby amended to read as follows:

33-2110A. TUITION OF OUT OF DISTRICT IDAHO STUDENTS, COUNTY TAXES AND OTHER FINANCIAL SUPPORT. (1) Any student residing in the area of a county outside of a community college district or in a county without a community college district, who has been a resident of the county and state as defined by section 33-2110B, Idaho Code, immediately prior to the date of his first enrollment in a community college, which residence may not be acquired while attending and enrolled in a community college, may enroll in any community college in the state, and the county of his residence shall pay that portion of his tuition

as hereinafter set out. The tuition which shall be paid by the resident county shall be that portion of the tuition uniformly established by a community college district for all out of district students, both in state as well as out of state, pursuant to section 33-2110, Idaho Code, after deducting therefrom the amount of tuition paid by a resident student at the community college; however, the liability of the resident county shall not exceed two-thirds (2/3) the total tuition and fees charged and in no instance shall it exceed five hundred dollars ($500) each semester for a two- (2) semester year for a full-time student. The student shall pay the tuition and fees charged a student resident in the district, and the balance, if any, of the nonresident student tuition above the maximum liability of the county of his residence. No county shall be liable for out of district tuition unless the board of county commissioners of that county has first verified to the community college in writing the fact that the student is a resident of the county. Upon verification, the county shall thereafter be liable for the out of district tuition so long as the student is duly enrolled and attending the college subject to the following limitations:

(a) Liability shall be for six (6) semesters or the term of the curriculum for which the student is enrolled, whichever is lesser.

(b) Liability shall terminate if the student's domiciliary residence changes and that change continues for twelve (12) months.

(2) The nonresident tuition shall be established annually not later than August 1st and shall be forthwith filed with the state board of education, together with a statement supporting the computation thereof. Each community college, by September 30 and March 1 of each year, shall bill the county of residence of each nonresident student enrolled at the commencement of each semester, and each board of county commissioners shall allow and order paid any bill for tuition at the first regular meeting following receipt of the bill, but not exceeding forty-five (45) days after receipt. Upon failure of a county to pay the tuition, a community college district may commence action in the district court of the state of Idaho for the county to collect the same.

(3) For the payment of tuition of nonresident students as herein provided, there shall be allocated in each county without a community college district to a county community college fund, and paid to the county treasurer to be held in that fund, fifty per cent (50%) of all moneys apportioned to the county out of liquor funds of the state of Idaho as set forth in chapter 4, title 23, Idaho Code, and that amount shall be deducted from the amount that would otherwise be allocated to the county; and if liquor funds are not sufficient to pay the tuition, commencing for the calendar year 1966, the board of county commissioners shall levy upon the taxable property within each county without a community college district, and, in a county with such a district, upon the taxable property within the county lying outside of the community college district, an ad valorem tax not to exceed six hundredths per cent (.0600%) of market value for assessment purposes, to be certified as set out in section 33-2111, Idaho Code. ~~Such levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, and the moneys derived from such levy shall be exempt from the limitation imposed by section 63-2220, Idaho Code.~~ The proceeds of

the levy shall be placed in the county community college fund. Apportionment of liquor funds herein provided shall commence for the fiscal quarter ending September 30, 1965, and accruing during that quarter.

(4) Based upon the enrollment established by the first semester's tuition bills received by September 30, the board of county commissioners shall establish immediately a total community college annual tuition budget for two (2) semesters which shall be equal to twice the amount of the tuition bills plus a contingency factor of ten per cent (10%). This budget shall be adjusted after March 1 based on any change of enrollment shown by the second semester tuition bills. If enrollment is from none to not more than four (4) students, a minimum budget of five (5) students at five hundred dollars ($500) each shall be established. In the event all tuition bills received have been paid, notwithstanding any other provision hereof, (a) any liquor funds received, which in the quarter when received to any extent are in excess of the budget, to the extent of that excess shall not be paid over to the county treasurer to be held in the community college fund, and (b) any funds received from the levy on taxable property, which when received to any extent are in excess of the budget after the application of liquor funds thereto, to the extent of that excess shall not be paid over to the community college fund. Excess liquor funds shall be paid pursuant to law as if this section were not applicable and excess funds shall be paid to the general fund of the county. In the event the total liquor fund payable hereunder to the county community college fund together with the receipts from the levy on taxable property for each fiscal year are insufficient to pay tuition bills, which deficiency is caused by a levy of less than the maximum allowed hereunder, or by enrollment in excess of the budget herein provided, the budget for each following year shall be increased to the maximum allowed by the maximum tax levy authorized to pay any deficiency at the earliest time. If the deficiency is due to the lack of funds in a fiscal year when the maximum levy authorized shall have been made, for the next fiscal year thereafter the number of students from that county shall be limited by the board of county commissioners to the extent necessary to pay the deficiency not later than the end of the following year. Provided nevertheless, for the two (2) semesters commencing September, 1965 the board of county commissioners shall limit the community college budget and total students to estimated liquor funds available on quarterly disbursements through June 30, 1966. Any limitation of students authorized shall be accomplished (a) on the basis of student grades and financial need, and (b) by each community college notifying the county of residence of each student's application and the county shall accept or reject the application at least five (5) days prior to the tuition billing dates set out herein. A community college shall nevertheless have a right to require any student residing outside the district to pay nonresident tuition if the county of his residence is more than twenty-five per cent (25%) in arrears of a total county tuition bill for one (1) year as of the beginning of the subsequent semester, but tuition shall be refunded to such students when paid by the county.

SECTION 32. That Section 33-2111, Idaho Code, be, and the same is hereby amended to read as follows:

33-2111. TAXES AND OTHER FINANCIAL SUPPORT FOR ~~JUNIOR~~ COMMUNITY COLLEGES. For the maintenance and operation of each ~~junior~~ community college, in addition to the income from tuition paid by students as hereinbefore provided, the board of trustees may levy upon the taxable property within the district a tax not to exceed sixteen hundredths percent (.16%) of the market value for assessment purposes on all taxable property within the district. ~~Such levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.~~

The tax levy determined by the board of trustees, within said limit, shall be certified to the board of county commissioners in each county in which the district may lie, not later than the second Monday in September of each year. No levy in excess of sixteen hundredths percent (.16%) of the market value for assessment purposes on all taxable property within the district shall be made unless a supplemental levy in a specified amount be first authorized through an election held, as provided in sections 33-401 through 33-406, Idaho Code, as if the ~~junior~~ community college district were a school district and approved by a majority of the district electors voting in such election. ~~Such supplemental levy shall be exempt from the limitations imposed by section 63-923(1), Idaho Code.~~

SECTION 33. That Section 33-2112, Idaho Code, be, and the same is hereby amended to read as follows:

33-2112. ADDITIONAL TAX LEVY FOR GYMNASIUM AND GROUNDS. The board of trustees of any community college district may levy a tax not exceeding one one-hundredth percent (.01%) on each dollar of the assessed value of the taxable property within the district for the maintenance and care of the gymnasium and college grounds of the district, in addition to other taxes authorized by law for the maintenance and support of the community college. ~~Such levy shall be exempt from the limitation imposed in section 63-923(1), Idaho Code, and the moneys derived from such levy shall be exempt from the limitation imposed by section 63-2220, Idaho Code.~~

SECTION 34. That Section 34-107, Idaho Code, be, and the same is hereby amended to read as follows:

34-107. "RESIDENCE" DEFINED. (1) "Residence," for voting purposes, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence.

(2) In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, situs of residence for which the exemption in section 63-~~105DD~~602G, Idaho Code, is filed, and motor vehicle registration.

(3) A qualified elector who has left his home and gone into another state or territory or county of this state for a temporary

purpose only shall not be considered to have lost his residence.

(4) A qualified elector shall not be considered to have gained a residence in any county or city of this state into which he comes for temporary purposes only, without the intention of making it his home but with the intention of leaving it when he has accomplished the purpose that brought him there.

(5) If a qualified elector moves to another state, or to any of the other territories, with the intention of making it his permanent home, he shall be considered to have lost his residence in this state.

SECTION 35. That Section 39-1334, Idaho Code, be, and the same is hereby amended to read as follows:

39-1334. ADDITIONAL TAX LEVIES. (a) If it becomes necessary and expedient so to do, it shall be lawful for the board to levy additional taxes and collect revenue for the purpose of creating a reserve sinking fund for the purpose of accumulating moneys with which to add new buildings or necessary equipment, and to provide extensions of and betterments to the improvements of the district, and for such purposes may levy an additional tax not to exceed two hundredths of one ~~per cent~~ <u>percent</u> (.02%) of the market value for assessment purposes on all taxable property in the district.

(b) If the board finds it necessary to maintain the solvency of a facility or facilities, the board is authorized to levy additional taxes and collect revenue in excess of the limitations prescribed by section 39-1333, Idaho Code, for the sole purpose of retiring current or past due obligations accruing where operating expenses for such a facility or facilities have exceeded all available sources of revenue in the fiscal year preceding the anticipated date of levy; provided, that any such additional levy shall be authorized only if approved by two-thirds (2/3) of the qualified electors of the district voting at an election called and conducted in the manner specified in sections 39-1339 through 39-1342, Idaho Code. ~~Any--such--additional--levy approved-under-the-provisions-of-this-subsection-shall-be-exempt--from the--limitations--imposed--by--subsection-(1)-of-section-63-923,-Idaho Code.~~

SECTION 36. That Section 42-619, Idaho Code, be, and the same is hereby amended to read as follows:

42-619. ALTERNATE PLAN FOR PAYMENT OF DISTRICT EXPENSES. (1) The county commissioners of any county having determined that providing the service of payment of water district expenses by the county treasurer from water district funds pursuant to section 42-613, Idaho Code, is an undue burden upon the county and shall no longer be provided, shall notify the director of the department of water resources of this action by December 1 in the year preceding the year for which the action shall first be effective by providing to the director a certified copy of the resolution of the commissioners taking such action.

(2) Notice of the action of the county commissioners shall be given to the water users of the district by the department of water resources together with the notice of the annual meeting given pursu-

ant to section 42-605, Idaho Code.

(3) At each annual meeting of a district for which the county commissioners have taken the action provided for in subsection (1) of this section, the water users shall provide for the election or appointment of a water district treasurer. If a water district treasurer is not elected at the annual meeting, and one is found to be necessary, the director of the department of water resources shall appoint a water district treasurer. The water 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 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.

(4) Before undertaking the duties of the office, the water 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 election or appointment of a water district treasurer, the actions taken by the water 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.

(5) The water district treasurer shall serve until a successor is elected or appointed, and qualified. A water 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 watermaster.

(6) Compensation for the services of the water 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 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.

(7) With respect to any district for which the county commissioners have taken the action provided for in subsection (1) of this section, or for which the water users have taken the action provided for in subsection (10) of this section and have notified the county thereof, the county auditor shall in the time and manner provided by section 63-~~2104~~1202, Idaho Code, transmit to the water district treasurer of the water district a settlement of all moneys belonging to such district paid into the county treasury and apportioned to such water district on or after the second Monday of the preceding month; provided, however, that in the months of July and January the money may be transmitted no later than the 25th of the month. The treasurer of the water district shall immediately deposit the funds in the designated depository for the district.

(8) The treasurer of the water district shall only disburse moneys from the water district account upon submission of a written voucher approved by the watermaster for expenses incurred for water district purposes related to the delivery of water or by a voucher approved by the chairman of the advisory committee for activities pursuant to resolutions adopted by the water users from district funds or funds retained pursuant to section 42-613A, Idaho Code.

(9) It shall be the duty of the water 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.

(10) In any water district for which the county commissioners have not taken the action provided for in subsection (1) of this section, the water users may at the annual meeting of the district approve a resolution authorizing the election or appointment of a water district treasurer who shall exercise all duties and responsibilities of a treasurer provided for in this section.

(11) In water districts with an annual budget of three thousand dollars ($3,000) or less, the water users may by resolution adopted at the annual meeting authorize the watermaster to serve as water district treasurer. Watermasters in water districts with annual budgets in excess of three thousand dollars ($3,000) shall not be authorized to act as water district treasurer.

SECTION 37. That Section 42-3215, Idaho Code, be, and the same is hereby amended to read as follows:

42-3215. LEVIES TO COVER DEFAULTS AND DEFICIENCIES. The board in certifying annual levies as herein provided, shall take into account the maturing indebtedness for the ensuing year as provided in its contracts, maturing bonds and interest on bonds, and deficiencies and defaults of prior years, and shall make ample provision for the payment thereof. In case the moneys produced from such levies, together with other revenues of the district are not sufficient punctually to pay the annual instalments on its contracts or bonds, and interest thereon, and to pay defaults and deficiencies, then the board shall make such additional levies of taxes as may be necessary for such purposes, and notwithstanding any limitations, such taxes shall be made and continue to be levied until the indebtedness of the district shall be fully paid. ~~Such taxes shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.~~

SECTION 38. That Section 42-3217, Idaho Code, be, and the same is hereby amended to read as follows:

42-3217. SINKING FUND. Whenever any indebtedness has been incurred by a district, it shall be lawful for the board to levy taxes and collect revenue for the purpose of creating a sinking fund in such amount sufficient to meet the payments of principal and interest on such indebtedness as the same matures, and to constitute a sinking fund for the payment of the principal amount of the indebtedness within thirty (30) years from the time of contracting the indebtedness evidenced thereby and in accordance with the provisions made for the payment of the principal and interest of such indebtedness and also to constitute a sinking fund for payment of the principal thereof, and theretofore provided by resolution pursuant to section 42-3222, Idaho Code, and as required by the constitution and laws of the state of

Idaho. ~~Such taxes shall be exempt from the limitation imposed by section 63-923(i), Idaho Code.~~

SECTION 39. That Section 42-3218, Idaho Code, be, and the same is hereby amended to read as follows:

42-3218. INCLUSION OF PROPERTY PETITIONED -- HEARING -- ORDER -- ANNEXATION OF PROPERTY PETITIONED -- HEARING -- ORDER -- ANNEXATION OF PROPERTY BY ELECTION -- ELECTION PROCEDURE. The boundaries of any district organized under the provisions of this chapter may be changed in the manner herein prescribed, but the change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever; nor shall it affect or impair or discharge any contract, obligation, lien or charge for or upon which it might be liable or chargeable had any such change of boundaries not been made.

(a) The owners of real property may file with the board a petition, in writing, praying that such real property be included in the district. The petition shall describe the property owned by the petitioners, and such petition shall be deemed to give assent of the petitioners to the inclusion in said district of the property described in the petition, and shall be accompanied by a reasonable filing fee in an amount to be determined by the board. Such petition must be acknowledged in the same manner that conveyances of land are required to be acknowledged. The secretary of the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands mentioned and the prayer of such petitioners; giving notice to all persons interested to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition should not be granted. The failure of any person to show cause in writing shall be deemed as an assent on his part to the inclusion of such lands in the district as prayed in the petition. If the petition is granted, the board shall make an order to that effect and file the same with the clerk of the district court together with a copy of the petition and proof of publication certified by the secretary of the board. The clerk of the district court shall present the same to the court and upon order of the court the property shall be included in the district.

(b) The territory adjoining or in close proximity to and in the same county with any district created under the provisions of this chapter may be annexed to the district by either of the following procedures: (1) A petition for annexation of real property described in such petition, which has been signed by the owners of not less ~~that~~ than sixty per cent (60%) of the area in land within the territory to be annexed, and which contains the separate property descriptions of such petitioners, and which is acknowledged in the same manner that conveyances of land are required to be acknowledged, accompanied by a

reasonable filing fee in an amount to be determined by the board, may be filed with the board. Upon filing with the board of such a petition, the secretary of the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands mentioned and the prayer of such petitioners; giving notice to all persons interested, including the staff and employees of said district and ~~any-one~~ anyone designated by said district, to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition shall not be granted. The failure of any person to show cause in writing shall be deemed as an assent to the annexation of such lands into the district as prayed in the petition. The board shall have full discretion to determine if the petition shall be granted. If the petition is granted, the board shall make an order to that effect and file the same with the clerk of the district court together with a copy of the petition and proof of publication certified by the secretary of the board. The clerk of the district court shall present the same to the court and upon order of the court the property shall be included in the district. (2) Upon filing with the board of a petition signed by registered voters owning real property residing in the territory to be annexed, who constitute at least twenty per cent (20%) of the taxpayers in such territory, praying for an election to determine if annexation shall be made of property designated in such petition, together with payment of a reasonable filing fee in an amount to be determined by the board, the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands to be annexed and the prayer of such petition; giving notice to all persons interested, including the staff and employees of said district and anyone designated by said district to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition shall not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition shall not be granted. The board shall have full discretion to determine if the petition shall be granted, and if such petition is granted, the board shall direct that an election be held, subject to the provisions of section 34-106, Idaho Code. The election shall be conducted in the same manner as general elections in this state, except that the board shall establish as many voting places within such territory proposed to be annexed as are by the board deemed necessary and shall define the boundaries of such voting places. The board shall appoint three (3) judges of election for each voting place, one (1) of whom shall be designated by the board to be the clerk of such election precinct. Each elector shall be registered as required by the general election laws and shall have resided within

the area to be annexed for thirty (30) days.

The secretary of the board of directors shall publish notice of the time and place of such election, in accordance with the provisions of section 34-1406, Idaho Code. The notice shall particularly describe the property to be annexed, the name of the district to which the territory is proposed to be annexed, and the terms and conditions prescribed by the board under which the property may be annexed. The notice shall designate the places in the territory where the election will be held, and shall require the voters to cast ballots which shall contain the words:

For annexation to .... District.

Against annexation to .... District.

The judges of the election shall make their return thereof to the board of directors of the district, which shall canvass the returns and render a statement of the results of the election on the records of the board. If the majority of the votes cast favor annexation, the board shall enter an order annexing the property described in the notice of election and upon the filing of a copy thereof with the clerk of the district court, and upon order of the court, the territory shall thereupon become annexed to the district and shall thenceforth be a part of the district.

(c) In all proceedings for inclusion or annexation hereunder, the board shall have the power to prescribe terms and conditions under which said property may be included in the district, including the condition that such property may only be annexed or included within the district if the property is also established as a water or sewer subdistrict of the district, pursuant to sections 42-3218A through 42-3218D, Idaho Code, and may be required to pay the district its pro rata share of construction costs theretofore incurred by the district pursuant to any bond issue theretofore made or otherwise; provided, however, that such terms and conditions shall be announced by the board at or before the hearing to be held pursuant to subparagraphs (a) and (b) above. Within ten (10) days of the announcement of the terms and conditions under which the property may be included the majority of the petitioners filing petitions under the provisions of subparagraphs (a) or (b) may withdraw their petitions, and no further proceedings shall thereafter be had by the board upon such petitions.

(d) All public streets, roads, highways or alleys upon or within which is situated any part of the operative system or equipment of the district and all public streets, roads, highways and alleys which abut against or touch property annexed or to be annexed to the district, to the extent they abut against or touch such property and are not included in a different district, shall be deemed to be included in the district as a part of the annexation and shall be included in the legal description and map which the district must file in the offices of the county assessor, county recorder and the state tax commission as required by section ~~63-2215~~ 63-215, Idaho Code; provided, however, that upon application by the district to the state tax commission, if the commission finds after consultation with the county assessor and the county recorder that exemption from the requirements of this subparagraph (d) will not unduly burden state and local tax administration, the commission by order may exempt the district from the requirements of this subparagraph (d), but the district shall be

required to comply with section ~~63-2215~~ 63-215, Idaho Code.

SECTION 40. That Section 42-3708, Idaho Code, be, and the same is hereby amended to read as follows:

42-3708. POWERS OF DIRECTORS. The directors of a watershed improvement district shall have power:

1. To levy and cause to be collected assessments on real property within the district in an amount not to exceed six hundredths of one ~~percent~~ per cent (.06%) of the market value for assessment purposes on all taxable property within the district, for the purpose of general administration and operation and maintenance of the district and in addition thereto to separately levy and cause to be collected assessments on real property within the district in an amount not to exceed ~~two-tenths-percent-(.2%)~~ twenty hundredths of one per cent (.20%) of the market value for assessment purposes on all taxable property within the district for construction of structural works of improvement. Before a levy can be made for any purpose, an election, subject to the provisions of section 34-106, Idaho Code, as herein provided must be held, and the provisions as outlined under sections 42-3712, 42-3713 and 42-3714, Idaho Code, must be complied with, and assessments can only be levied against lands to be directly benefited. ~~Such tax-levies-shall-be-exempt-from--the--limitation--imposed--by--section 63-923(1),-Idaho-Code.~~

2. To conduct surveys, investigations and research relating to floodwater, sediment damage and the conservation, utilization, and disposal of water in the district, and the structural works of improvement needed.

3. To obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; to sell, lease, or otherwise dispose of any of its property or interest therein in furtherance of the purposes and provisions of this chapter.

4. To develop comprehensive plans for the prevention of floodwater and sediment damage and the conservation, development, utilization, and disposal of water within the district, which plans shall specify the acts, procedures, performances and avoidances which are necessary for effectuation of such plans.

5. To construct, operate and maintain structural works of improvement for the prevention of floodwater and sediment damages, and the conservation, development, utilization, and disposal of water as provided for in the act of the congress of the United States known as the Watershed Protection and Flood Prevention Act (U.S.C., tit. 16, sections 1001-1008) and acts amendatory thereto.

6. To have the right of eminent domain with the power to cause to be condemned and appropriated for the use of the district in the construction, operation, maintenance and upkeep of its structures, waterways, dikes, dams, basins, or any other use necessary in the carrying out of the provisions of this chapter upon the payment of just compensation therefor.

7. To borrow money and to issue negotiable coupon bonds, which

bonds shall bear interest, and which bonds shall be due and payable not later than thirty (30) years from the date of issuance, or at such earlier date as may be determined by the directors. The form and terms of said bonds, including their payment and redemption prior to maturity, shall be determined by the directors. Such bonds as may be issued shall be payable solely out of and from the assessments levied upon and a lien upon the lands within the district as provided in this chapter. Such bonds may be issued by the directors only upon the holding of an election within the district as provided by law and upon such election resulting in two-thirds (2/3) of the property owners, and representing at least fifty-one per cent (51%) of the land to be benefited, casting their ballots in favor thereof.

8. To enter into contracts or agreements with the United States or any of its officers, agents, or subdivisions, or the state of Idaho or any of its officers, agents or political subdivisions, and to cooperate with such governments, persons or agencies in effectuating, promoting and accomplishing the purposes of this chapter.

9. To bear its allocated share of the cost of any project resulting from any contract or agreement entered into as provided in subsection 8. of this section.

10. To take over, administer and maintain pursuant to any agreement or contract entered into in accordance with the provisions of subsection 8. of this section any watershed improvement project within its boundaries undertaken in cooperation with the United States or any of its agencies, or with the state of Idaho or any of its agencies, or any combinations thereof.

11. To accept donations, gifts and contributions in money, services, or materials, or otherwise, from the United States or any of its agencies, or the state of Idaho or any of its agencies or any combinations thereof, and to expend such moneys, services, or materials in carrying on its operations.

12. To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and to promulgate, amend and repeal rules not consistent with the provisions of this chapter.

13. To exercise all other powers necessary, convenient or incidental to carrying out the purposes and provisions of this chapter.

SECTION 41. That Section 43-701E, Idaho Code, be, and the same is hereby amended to read as follows:

43-701E. FLAT RATE ASSESSMENTS -- SPECIAL HANDLING OF UNPAID ASSESSMENTS ON PROPERTY EXEMPT FROM GENERAL TAXATION. Any irrigation district assessment certified by the treasurer to the county officers which is placed on property exempt from general ad valorem taxation may be returned to the irrigation district if the assessment is not paid within three (3) years of the date on which it is due, and upon return of any such assessment the district shall be responsible for collection thereof, and the county officers shall be relieved of any further responsibility for collection of that assessment. Entry of delinquent assessments and the penalties thereon by the tax collector

in accordance with ~~section 63-1109~~ chapter 10, title 63, Idaho Code, shall constitute compliance with the provisions of sections 43-710 and 43-711, Idaho Code, and the treasurer of the district shall not be required to make any separate delinquency entry with respect to any parcel of property to which this section applies.

SECTION 42. That Section 43-717, Idaho Code, be, and the same is hereby amended to read as follows:

43-717. DELINQUENCY ENTRIES -- SERVICE OF NOTICE OF PENDING ISSUANCE OF TAX DEED -- EXCLUSIVE PROCEDURE FOR JUDICIAL REVIEW. (1) The treasurer of the district wherein the property for which a tax deed may issue, or the owner of the tax certificate, shall serve or cause to be served written notice of pending issuance of tax deed upon the record owner or owners and parties in interest of record in the following exclusive manner:

(a) By serving or causing to be served a copy of such notice by certified mail with return receipt demanded upon the record owner or owners and parties in interest of record at their last known address, such service of notice to be made no more than five (5) months nor less than two (2) months before the time set for the tax deed to issue;

(b) In the event that such notice is served as above described and returned undelivered and after reasonable and diligent search and inquiry in attempting to locate and serve the record owner or owners and parties in interest of record, then by publishing a summary of such notice in a newspaper having general circulation in the county wherein the property is situated. Such publication must be made at least once a week for four (4) consecutive weeks, the last publication of which is to be no more than two (2) months nor less than fourteen (14) days before the time set for the tax deed to issue.

(c) For purposes of paragraph (b) of this section, an examination of the ~~taxpayer's index prepared~~ ownership records maintained by the assessor of the county in which the property is located in accordance with section 63-3~~14~~07, Idaho Code, and an examination of the current telephone directory for the area where the property is located, shall be deemed a reasonable and diligent search and inquiry in attempting to locate and serve the record owner or owners and parties in interest of record.

(2) The record owner or owners and parties in interest of record shall be liable for and shall pay to the treasurer or to the owner of the tax certificate all reasonable costs and fees in the preparation, service and publication of such notice and such reasonable costs shall become a lien upon the property in favor of the district or the owner of the tax certificate and shall be added to the delinquent assessment.

(3) Such notice and summary thereof must contain the following items:

(a) The name and last known address of the record owner or owners;

(b) An accurate description of the property for which the delinquency entry has been made, or, in lieu thereof, the irrigation

district assessment number assigned to the property in the assessment roll of the district, and either:

i. A street address or other information which would be of assistance to the public in ascertaining the location of the property; or

ii. The name and telephone number of a person, firm or business office from whom information concerning the location of the property may be obtained;

(c) The year for which the assessment was levied and for which the assessment is delinquent;

(d) An itemized statement showing assessment, penalty, interest and all costs and fees incident to the delinquency entry and such notice up to and including the date of the making of such notice;

(e) The date the delinquency entry was made;

(f) The time, date, place at which, and by whom the tax deed will issue; and

(g) A statement that the record owner or owners or any party in interest shall have adequate opportunity to be heard by the board, to confront and cross-examine any evidence or witness against the record owner or owners, and obtain and present evidence on behalf of the record owner or owners or any party in interest. Such statement shall also contain notice of to whom written inquiries and objections shall be directed concerning the notice and information contained therein and by what date such inquiries and objections must be received. Verbal inquiries and objections shall not be considered for any purpose.

(h) A statement that a hearing before the board and judicial review of the board's decision are the exclusive remedies for challenging the issuance of the tax deed and that no other action can be taken to determine the validity of a properly executed tax deed and that the tax deed conveys complete title to the described land to the grantee named in the tax deed.

(4) Judicial review of a decision of the board as provided in section 43-719(2), Idaho Code, shall be the exclusive method for judicial determination of the regularity of all proceedings from the assessment by the board, inclusive, up to the execution of the tax deed, and no separate or independent action shall lie for the determination of the regularity of those proceedings.

(5) Any party in interest may file a written request for such notice in the office of the treasurer of the district wherein the property for which the delinquency entry has been made is situated. Such request shall contain the following items:

(a) The name and address of the record owner or owners;

(b) An accurate description of the property covered by the interest, or, in lieu thereof, the irrigation district assessment number used in assessing the same;

(c) The name and address of the party in interest;

(d) An accurate description of the interest held; and

(e) The date of termination of the interest held.

(6) If a record owner or owners or a party in interest shall have actual knowledge of the notice of pending issuance of a tax deed or that issuance of a tax deed is pending, it shall be deemed sufficient notice under this section.

(7) Service shall be deemed completed upon depositing the certified mailing containing the original or a copy of the notice of pending issuance of tax deed with return receipt demanded in any United States post office mail box, or upon physical delivery of such notice or copy thereof by the treasurer or by the owner of the tax certificate or by appointed agent of either, to the record owner or owners or party in interest, or upon the date of last publication.

SECTION 43. That Section 44-2102, Idaho Code, be, and the same is hereby amended to read as follows:

44-2102. ADMINISTRATION -- POWERS AND DUTIES. The director is charged with the administration of the provisions of this chapter and shall:

(1) In accordance with the provisions of chapter 52, title 67, Idaho Code, promulgate, adopt, amend, and repeal rules ~~and regulations~~, not inconsistent with the provisions of this chapter and the laws of the state of Idaho, as he shall consider necessary, to provide for the licensing and bonding of manufactured home dealers and brokers, manufacturers and service firms, the licensing of manufactured home salesmen, and the establishment of a mandatory statewide manufactured home "set up" code. The director shall also define and prohibit any practice which is found to be deceptive.

(2) A used unit which has been determined to be or declared by the owner to be real property under the provisions of section 63-~~307B~~304, Idaho Code, may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman representing a licensed broker, but not a manufactured home dealer or manufactured home salesman. A used unit which has been determined to be and is carried on the tax rolls as personal property may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman, pursuant to chapter 20, title 54, Idaho Code, or by a licensed manufactured home dealer, broker, or manufactured home salesman, but with respect to a licensed manufactured home dealer, broker or salesman only to the extent such sale does not involve the purchase or sale of an interest in real estate.

SECTION 44. That Section 44-2206, Idaho Code, be, and the same is hereby amended 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 section 63-~~307B~~304, 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.

SECTION 45. That Section 46-1008, Idaho Code, be, and the same is hereby amended to read as follows:

46-1008. THE GOVERNOR AND DISASTER EMERGENCIES. (1) Under this act, the governor may issue executive orders, proclamations and amend or rescind them. Executive orders and proclamations have the force and effect of law.

(2) A disaster emergency shall be declared by executive order or proclamation of the governor if he finds a disaster has occurred or that the occurrence or the threat thereof is imminent. The state of disaster emergency shall continue until the governor finds that the threat or danger has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist, and when either or both of these events occur, the governor shall terminate the state of disaster emergency by executive order or proclamation; provided, however, that no state of disaster emergency may continue for longer than thirty (30) days unless the governor finds that it should be continued for another thirty (30) days or any part thereof. The legislature by concurrent resolution may terminate a state of disaster emergency at any time. Thereupon, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection shall indicate the nature of the disaster, the area or areas threatened, the area subject to the proclamation, and the conditions which are causing the disaster. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and unless the circumstances attendant upon the disaster prevent or impede, be promptly filed with the bureau of disaster services, the office of the secretary of state and the office of the recorder of each county where the state of disaster emergency applies.

(3) An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the state, local and intergovernmental disaster emergency plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment,

and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this act or any other provision of law relating to disaster emergencies.

(4) During the continuance of any state of disaster emergency the governor is commander-in-chief of the militia and may assume command of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations, but nothing herein restricts his authority to do so by orders issued at the time of the disaster emergency.

(5) In addition to any other powers conferred upon the governor by law, he may:

(a) suspend the provisions of any regulations prescribing the procedures for conduct of public business that would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(b) utilize all resources of the state, including, but not limited to, those sums in the disaster emergency account as he shall deem necessary to pay obligations and expenses incurred during a declared state of disaster emergency;

(c) transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(d) subject to any applicable requirements for compensation under section 46-1012, Idaho Code, commandeer or utilize any private property, real or personal, if he finds this necessary to cope with the disaster emergency;

(e) direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(f) prescribe routes, modes of transportation, and destinations in connection with evacuation;

(g) control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(h) suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives, and combustibles;

(i) make provision for the availability and use of temporary emergency housing.

(6) Whenever an emergency or a disaster has been declared to exist in Idaho by the president under the provisions of the disaster relief act of 1974 (public law 93-288, 42 USC 5121) the governor may:

(a) enter into agreements with the federal government for the sharing of disaster recovery expenses involving public facilities;

(b) require as a condition of state assistance that a local taxing district be responsible for paying forty per cent (40%) of the nonfederal share of costs incurred by the local taxing district which have been determined to be eligible for reimbursement by the federal government, provided that the total local share of eligible costs for a taxing district shall not exceed ten per cent (10%) of the taxing district's tax charges authorized by ~~section 63-923(1) and~~ section 63-~~2220~~802, Idaho Code;

(c) obligate the state to pay the balance of the nonfederal share of eligible costs within local taxing entities qualifying for federal assistance; and
(d) enter into agreements with the federal government for the sharing of disaster assistance expenses to include individual and family grant programs (42 USC 5178).

SECTION 46. That Section 49-422, Idaho Code, be, and the same is hereby amended to read as follows:

49-422. REGISTRATION FEES -- MANUFACTURED HOMES AND TOWED RECREATIONAL VEHICLES. The fees for registering manufactured homes or towed recreational vehicles shall be four dollars ($4.00). In addition to the registration fee, and as a prerequisite to registering there shall be an assessment levied on each manufactured home for ad valorem tax as provided in ~~sections 63-102 and 63-1203~~ chapter 3, title 63, Idaho Code. An applicant for a manufactured home registration shall be required to exhibit the general property tax receipt for the year of registration before a license may be issued. An applicant for a towed recreational vehicle registration shall be required to obtain the recreational vehicle annual license as required in section 49-445, Idaho Code, in conjunction with the registration required in this section. It shall be unlawful for any manufactured home or towed recreational vehicle to be moved on any highway without first being registered. The registration fees collected as specified in this section shall be paid to the assessor of the county where the registration was purchased. Fifty per cent (50%) of the registration fees shall be placed in the county current expense fund and the balance of the fees shall be deposited in the highway distribution account.

SECTION 47. That Section 50-223, Idaho Code, be, and the same is hereby amended to read as follows:

50-223. ANNEXATION ORDINANCE TO BE FILED. It shall be the duty of the clerk of any city, within ten (10) days following the effective date of any annexation ordinance: to file a certified copy of such ordinance with the county auditor, the county treasurer and the county assessor of the county in which the city is located, and with the Idaho state tax commission; to comply with the provisions of section 63-~~2~~215, Idaho Code; and to order the annexed area surveyed if the council shall so direct; the cost of said survey to be prorated according to the amount of land surveyed and assessed to the then owners of said lands as provided in section 50-1008, Idaho Code, and thereupon and thereafter the corporate limits of such city shall extend to and include such land, and thereafter all property and persons within the limits of such annexed tract of land shall be subject to the provisions of all by-laws and ordinances of the said city.

SECTION 48. That Section 50-224, Idaho Code, be, and the same is hereby amended to read as follows:

50-224. EFFECT OF ANNEXATION -- CEMETERY DISTRICTS EXEMPTED. Upon compliance with the provisions of section ~~63-2215~~ 63-215, Idaho Code,

all the property situated within the said annexed territory shall be subject to taxation as other property and persons within the corporate limits of such city, as though said annexed portion had been a part of the said city from the date of its incorporation.

When the annexed area or any part thereof is situated in any district, organized under the laws of this state, and said district is supported in whole or in part by taxes levied upon the annexed territory or any part thereof, and said district provides the same or similar services as that provided by the annexing city, the annexed area shall, upon the filing of the certified copy of said ordinance, be relieved of all liability for levies, taxes and assessments made by said district after the calendar year in which said annexation occurred. The purpose of this section is to prevent duplicate taxation of said annexed area for the same or similar services by such district and the annexing city.

The filing of the certified copy of said ordinance shall constitute a withdrawal of said annexed territory from the district, offering the same or similar services to the annexed territory as the annexing city, which withdrawal shall be effective as of December 31 of the calendar year of annexation, such withdrawal shall have the same effect as if the withdrawal had been made by the statutory procedure for withdrawing from such district.

However, this section shall not apply to public cemetery districts created prior to the date of the annexation ordinance, and that the annexing city may not levy taxes for cemetery maintenance within the bounds of an existing cemetery district. Cities which have heretofore levied taxes for cemetery maintenance on property within an existing cemetery district shall discontinue that practice from and after the date this act becomes effective.

SECTION 49. That Section 50-225, Idaho Code, be, and the same is hereby amended to read as follows:

50-225. EXCLUSION OF TERRITORY. The boundaries of any city in this state may be altered and a portion of the territory thereof excluded therefrom, and the councils of such cities are hereby granted power to enact ordinances for that purpose. Such alteration shall not relieve any territory excluded from the limits of a city from its liability on account of any outstanding bonded or other indebtedness of such city or of any bonded or other indebtedness of any improvement district of which the excluded territory is an existing part at the time of the passage of such ordinance. For the purpose of collecting any of the indebtedness specified in this section, the territory so excluded shall be and remain under the jurisdiction of such city. Immediately after the passage, approval and publication of said ordinance, a copy thereof duly certified by the clerk of said city shall be filed in compliance with the provisions of section ~~63-2215~~ 63-215, Idaho Code. Thereafter, the boundaries of said city shall be as set forth in said ordinance.

SECTION 50. That Section 50-1006, Idaho Code, be, and the same is hereby amended to read as follows:

50-1006. EXPENDITURES NOT TO EXCEED APPROPRIATION -- EXCEPTIONS. The mayor and council shall have no power to appropriate, issue or draw on the treasurer for money unless the same has been appropriated or ordered by ordinance, or the claim for the payment of which such order or warrant is issued has been allowed according to the provisions of sections 50-1001 through 50-1042, Idaho Code, and appropriations for the class or object out of which such claim is payable has been made as provided in sections 50-1001 through 50-1042, Idaho Code. Neither the city council nor any department or officer of the corporation shall add to the corporation expenditures in any year anything over and above the amount provided in the annual appropriation bill for the year, except as herein otherwise specially provided; and no expenditures for any improvement to be paid shall exceed in any year the amount allocated for such improvement in the annual appropriation bill, provided, however, that nothing herein contained shall prevent one-half (1/2) plus one (1) of the members of the full council from declaring an emergency, the necessity for which was caused by casualty, accident, or act of nature after such annual appropriation is made. In the event of a declared emergency caused by casualty, accident, or act of nature, the city council may order the mayor and finance committee to borrow a sufficient sum to provide for the expense incurred in abating the emergency or the making of any repairs or restoration of improvements, for a space of time not exceeding the close of the next fiscal year, which sum and interest shall be added to the amount authorized to be raised in the next general tax levy and embraced therein.

Should any judgment be obtained against the corporation, the mayor and finance committee, under the sanction of the city council, may borrow for a space of time not exceeding the close of the next fiscal year, a sufficient amount to pay the same, which sum and interest shall in like manner be added to the amount authorized to be raised in the general tax levy of the next year and embraced therein. ~~The tax levy herein shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.~~

SECTION 51. That Section 50-1007, Idaho Code, be, and the same is hereby amended to read as follows:

50-1007. CERTIFICATION AND COLLECTION OF CITY TAXES. The council of each city not later than the second Monday in September, as provided in section 63-~~624~~803(3), Idaho Code, shall certify to the county commissioners of the county, the total amount required from a property tax upon property within the city to raise the amount of money fixed by their budget as previously approved which shall include all special taxes assessed as provided by law. The amount which may be so certified, assessed and collected shall not exceed the maximum levy provided by section 50-235, Idaho Code, to defray its general expenses for either the current or the ensuing fiscal year, together with any special taxes, authorized under the provisions of this act, and such tax as may be authorized by law to be levied for the payment of outstanding bonds and debts. In all sales for delinquent city taxes, if there be other delinquent taxes from the same person, or lien upon the same property, the sale shall be for all the delinquent taxes; and

such sales and all sales made under and by virtue of this section or the provisions of law herein referred to shall be of the same validity, and in all respects be deemed and treated as though sales had been made for delinquent state and county taxes exclusively.

SECTION 52. That Section 50-1308, Idaho Code, be, and the same is hereby amended to read as follows:

50-1308. APPROVALS. (1) If a subdivision is not within the corporate limits of a city, the plat thereof shall be submitted, accepted and approved by the board of commissioners of the county in which the tract is located in the same manner and as herein provided. If the city or county has established a planning commission, then all plats must be submitted to said commission in accordance with provisions of section 50-1106, Idaho Code. No plat of a subdivision requiring city approval shall be accepted for record by the county recorder unless said plat shall have first been submitted to the city and has been accepted and approved and shall have written thereon the acceptance and approval of the said city council and bear the signature of the city engineer and city clerk. No plat of a subdivision shall be accepted for record by the county recorder unless said plat has been certified, within thirty (30) days prior to recording, by the county treasurer of the county in which the tract is located. The county treasurer shall not withhold certification for any reason except for county property taxes due, but not paid, upon the property included in the proposed subdivision.

(2) Plats resulting from the exercise of any right granted under the provisions of sections 50-1314 and 63-~~303~~210(2), Idaho Code, may be accepted for record and recorded by the county recorder without being certified by the county treasurer and the record of any such plat which has previously been recorded without being certified by the county treasurer shall not be invalid or defective because of not having been so certified by the county treasurer.

SECTION 53. That Section 50-1512, Idaho Code, be, and the same is hereby amended to read as follows:

50-1512. TAX LEVY -- SALARY DEDUCTIONS. Any city having established a policeman's retirement fund may levy a tax of not to exceed eight hundredths per cent (.08%) of market value for assessment purposes of property within the corporate limits of the city, except where pursuant to section 50-1525, Idaho Code, it is found that the levy is not sufficient to meet the fund's future liability, in which case the levy may be increased to provide for the actuarial soundness of the fund. ~~The levy, as authorized herein, shall be exempt from the provisions of section 63-2220, Idaho Code.~~ Said taxes shall be placed by the city treasurer in a fund to be known as the "policeman's retirement fund." Sums certain, as determined by the governing body, not to exceed eight per cent (8%) per month, may be deducted from the salary of each police officer and placed in said "policeman's retirement fund" by the treasurer. When all claims against the fund have been satisfied, the authority to levy according to this section shall terminate.

SECTION 54. That Section 50-2903, Idaho Code, be, and the same is hereby amended to read as follows:

50-2903. DEFINITIONS. The following terms used in this chapter shall have the following meanings, unless the context otherwise requires:

(1) "Act" or "this act" means this revenue allocation act.

(2) "Agency" or "urban renewal agency" means a public body created pursuant to section 50-2006, Idaho Code.

(3) "Authorized municipality" or "municipality" means any incorporated city which has established an urban renewal agency, or by ordinance has identified and created a competitively disadvantaged border community.

(4) "Base assessment roll" means the equalized assessment rolls, for all classes of taxable property, on January 1 of the year in which the local governing body of an authorized municipality passes an ordinance adopting or modifying an urban renewal plan containing a revenue allocation financing provision, except that the base assessment roll shall be adjusted as follows: the equalized assessment valuation of the taxable property in a revenue allocation area as shown upon the base assessment roll shall be reduced by the amount by which the equalized assessed valuation as shown on the base assessment roll exceeds the current equalized assessed valuation of any taxable property located in the revenue allocation area, and by the equalized assessed valuation of taxable property in such revenue allocation area that becomes exempt from taxation subsequent to the date of the base assessment roll. The equalized assessed valuation of the taxable property in a revenue allocation area as shown on the base assessment roll shall be increased by the equalized assessed valuation, as of the date of the base assessment roll, of taxable property in such revenue allocation area that becomes taxable after the date of the base assessment roll.

(5) "Clerk" means the city clerk of the municipality.

(6) "Competitively disadvantaged border community area" means a parcel of land consisting of at least forty (40) acres which is situated within the boundaries of an incorporated city and within twenty-five (25) miles of a state or international border, which the governing body of such incorporated city has determined by ordinance is disadvantaged in its ability to attract business, private investment, or commercial development, as a result of a competitive advantage in the adjacent state or nation resulting from inequities or disparities in comparative sales taxes, income taxes, property taxes, population or unique geographic features.

(7) "Deteriorated area" means:

(a) Any area, including slum area, in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to

the public health, safety, morals or welfare.

(b) Any area which by reason of the presence of a substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, results in economic underdevelopment of the area, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use.

(c) Any area which is predominately open and which because of obsolete platting, diversity of ownership, deterioration of structures or improvements, or otherwise, results in economic underdevelopment of the area or substantially impairs or arrests the sound growth of a municipality. The provisions of section 50-2008(d), Idaho Code, shall apply to open areas.

(d) Any area which the local governing body certifies is in need of redevelopment or rehabilitation as a result of a flood, storm, earthquake, or other natural disaster or catastrophe respecting which the governor of the state has certified the need for disaster assistance under any federal law.

(e) Any area which by reason of its proximity to the border of an adjacent state is competitively disadvantaged in its ability to attract private investment, business or commercial development which would promote the purposes of this chapter.

(8) "Facilities" means land, rights in land, buildings, structures, machinery, landscaping, extension of utility services, approaches, roadways and parking, handling and storage areas, and similar auxiliary and related facilities.

(9) "Local governing body" means the city council of a municipality.

(10) "Plan" or "urban renewal plan" means a plan, as it exists or may from time to time be amended, prepared and approved pursuant to section 50-2008, Idaho Code, and any method or methods of financing such plan, which methods may include revenue allocation financing provisions.

(11) "Project" or "urban renewal project" or "competitively disadvantaged border areas" may include undertakings and activities of a municipality in an urban renewal area for the elimination of deteriorated or deteriorating areas and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. Such undertakings and activities may include:

(a) Acquisition of a deteriorated area or a deteriorating area or portion thereof;

(b) Demolition and removal of buildings and improvement;
(c) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, open space, off-street parking facilities, public facilities, public recreation and entertainment facilities or buildings and other improvements necessary for carrying out, in the urban renewal area or competitively disadvantaged border community area, the urban renewal objectives of this act in accordance with the urban renewal plan or the competitively disadvantaged border community area ordinance.
(d) Disposition of any property acquired in the urban renewal area or the competitively disadvantaged border community area (including sale, initial leasing or retention by the agency itself) or the municipality creating the competitively disadvantaged border community area at its fair value for uses in accordance with the urban renewal plan except for disposition of property to another public body;
(e) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan;
(f) Acquisition of real property in the urban renewal area or the competitively disadvantaged border community area which, under the urban renewal plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitation of the structures for guidance purposes, and resale of the property;
(g) Acquisition of any other real property in the urban renewal area or competitively disadvantaged border community area where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or to prevent the spread of blight or deterioration, or to provide land for needed public facilities or where necessary to accomplish the purposes for which a competitively disadvantaged border community area was created by ordinance;
(h) Lending or investing federal funds; and
(i) Construction of foundations, platforms and other like structural forms.
(12) "Project costs" includes, but ~~are~~ is not limited to:
(a) Capital costs, including the actual costs of the construction of public works or improvements, facilities, buildings, structures, and permanent fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures, and permanent fixtures; the acquisition of equipment; and the clearing and grading of land;
(b) Financing costs, including interest during construction and capitalized debt service or repair and replacement or other appropriate reserves;
(c) Real property assembly costs, meaning any deficit incurred from the sale or lease by a municipality of real or personal property within a revenue allocation district;
(d) Professional service costs, including those costs incurred for architectural, planning, engineering, and legal advice and services;
(e) Direct administrative costs, including reasonable charges for

the time spent by municipal employees in connection with the implementation of a project plan;

(f) Relocation costs;

(g) Other costs incidental to any of the foregoing costs.

(13) "Revenue allocation area" means that portion of an urban renewal area or competitively disadvantaged border community area the equalized assessed valuation (as shown by the taxable property assessment rolls) of which the local governing body has determined, on and as a part of an urban renewal plan, is likely to increase as a result of the initiation of an urban renewal project or competitively disadvantaged border community area. The base assessment roll or rolls of revenue allocation area or areas shall not exceed at any time ten percent (10%) of the current assessed valuation of all taxable property within the municipality.

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

(15) "Tax" or "taxes" means all ad valorem tax levies upon taxable property.

(16) "Taxable property" means taxable real property, personal property, operating property, or any other tangible or intangible property included on the equalized assessment rolls.

(17) "Taxing district" means a taxing district as defined in section 63-6~~21~~201, Idaho Code, as that section now exists or may hereafter be amended.

SECTION 55. That Section 50-2908, Idaho Code, be, and the same is hereby amended to read as follows:

50-2908. DETERMINATION OF TAX LEVIES -- CREATION OF SPECIAL FUND. (1) For purposes of calculating the rate at which taxes shall be levied by or for each taxing district in which a revenue allocation area is located, the county commissioners shall, with respect to the taxable property located in such revenue allocation area, use the equalized assessed value of such taxable property as shown on the base assessment roll rather than on the current equalized assessed valuation of such taxable property.

(2) With respect to each such taxing district, the tax rate calculated under subsection (1) of this section shall be applied to the current equalized assessed valuation of all taxable property in the taxing district, including the taxable property in the revenue allocation area. The tax revenues thereby produced shall be allocated as follows:

(a) To the taxing district shall be allocated and shall be paid by the county treasurer:

(i) All taxes levied by the taxing district or on its behalf on taxable property located within the taxing district but outside the revenue allocation area;

(ii) A portion of the taxes levied by the taxing district or on its behalf on the taxable property located within the revenue allocation area, which portion is the amount produced by applying the taxing district's tax rate determined under subsection (1) of this section to the equalized assessed valuation, as shown on the base assessment roll, of the taxable property located within the revenue allocation area; and

(iii) If such taxing district is a school district, a further portion of the taxes levied by such district or on its behalf on the taxable property located within the revenue allocation area, which portion is the amount equal to the percentage specified in section 33-1002(7)(a), Idaho Code, multiplied by the difference between the current equalized assessed valuation of such taxable property and the equalized assessed valuation of such taxable property as shown on the base assessment roll.

(b) To the urban renewal agency shall be allocated the balance, if any, of the taxes levied on the taxable property located within the revenue allocation area.

(3) Upon enactment of an ordinance adopting a revenue allocation financing provision as part of an urban renewal plan, the urban renewal agency shall create a special fund or funds to be used for the purposes enumerated in this chapter. The revenues allocated to the urban renewal agency pursuant to this chapter, shall be paid to the agency by the treasurer of the county in which the revenue allocation district is located and shall be deposited by the agency into one or more of such special funds. The agency may, in addition, deposit into such special fund or funds such other income, proceeds, revenues and funds it may receive from sources other than the revenues allocated to it under subsection (2)(b) of this section.

(4) For the purposes of section~~s 63-621 through 63-626~~ 63-803, Idaho Code, during the period when revenue allocation under this chapter is in effect, and solely with respect to any taxing district in which a revenue allocation area is located, the county commissioners shall, in fixing any tax levy, take into consideration the equalized assessed valuation of the taxable property situated in the revenue allocation area as shown in the base assessment roll, rather than the current equalized assessed value of such taxable property.

(5) For all other purposes, including, without limitation, for purposes of sections 33-802, 33-1002, 63-~~92~~31313 and 63-~~22~~20802, Idaho Code, reference in the Idaho Code to the term "market value for assessment purposes" (or any other such similar term) shall mean market value for assessment purposes as defined in section 63-20~~2~~8, Idaho Code.

SECTION 56. That Section 54-4105, Idaho Code, be, and the same is hereby amended to read as follows:

54-4105. EXCEPTIONS. (1) The provisions of this chapter do not apply to any person who does not hold himself out as, or offer to perform services as, a real estate appraiser.

(2) The provisions of this chapter do not restrict the right to use the term "~~certified---evaluator---for---ad----valorem----tax purposes~~appraiser," provided that such term is not used in a manner that creates the impression of certification by the state of Idaho to perform real estate appraisals other than ad valorem tax appraisals. However, nothing in this chapter shall entitle a state licensed or state certified real estate appraiser to appraise real estate for ad valorem tax purposes unless he has first been certified by the Idaho state tax commission pursuant to section 63-~~513(24)~~105A(17), Idaho

Code.

(3) The provisions of this chapter shall not apply to a licensed real estate broker, associate broker or salesperson who, in the ordinary course of his business gives an opinion of the price of real estate for the purpose of a prospective listing or sale, provided that such person does not represent himself as being a state licensed or certified real estate appraiser.

(4) Any person who is not licensed or certified under the provisions of this chapter may assist a state licensed or certified real estate appraiser in the performance of an appraisal, provided that he is actively and personally supervised by the state licensed or certified appraiser and provided further that any appraisal report rendered in connection with the appraisal is reviewed and signed by the state licensed or certified real estate appraiser.

(5) For a period of two (2) years after the enactment of this act only, the provisions of this chapter requiring mandatory licensure or certification shall not apply to employees of the Idaho transportation department.

SECTION 57. That Section 59-1394, Idaho Code, be, and the same is hereby amended to read as follows:

59-1394. EXCESS COSTS -- ADDITIONAL CONTRIBUTIONS. (1) In addition to the employee and employer contributions required by chapter 14, title 72, Idaho Code, additional contributions shall be required to fund the provisions of section 59-1397, Idaho Code. These costs shall be borne by employers and by the state of Idaho as hereinafter provided.

(a) Fifty percent (50%) of the gross receipts by the state of the tax on fire insurance premiums, as provided by section 41-402, Idaho Code, is hereby perpetually appropriated to the public employee retirement account for the purpose of partially funding the benefit payment requirements imposed by the provisions of chapter 14, title 72, Idaho Code.

(b) The board shall conduct studies from time to time of the benefits prescribed by section 59-1397, Idaho Code, to determine the additional contributions required to fund the rights conferred by chapter 14, title 72, Idaho Code, above and beyond the initial contribution from the fire insurance premium tax required by subsection (1) (a) of this section. If such studies indicate the value of the benefits exceeds the required contributions otherwise prescribed, the board shall establish an additional contribution rate necessary to bring the amounts into balance. The cost of such additional contribution shall be borne equally by the employers through additional contributions and the state of Idaho through the fire insurance premium tax. In addition to appropriation of the fire insurance premium tax contained in subsection (1) (a) of this section, the amount of the gross receipts by the state of the tax on fire insurance premiums, as provided by section 41-402, Idaho Code, necessary to match dollar for dollar the additional contribution required of employers is hereby perpetually appropriated commencing July 1, 1980 to the public employee retirement account for the purpose of subsection (1) (b) of this section. If

the matching funds herein provided equal one hundred percent (100%) of the gross receipts from the fire insurance premium tax, the employers shall contribute the balance of the monies required to meet the required contribution rate. The additional contribution rate from the employers commencing October 1, 1980 shall be ten percent (10%) of the pay period salary of each paid firefighter until next determined by the board. ~~If the additional contribution rate is to be satisfied by an ad valorem tax levy, such levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, and from the provisions of section 63-2220, Idaho Code.~~

(2) Nothing herein contained shall prevent the board from contracting with employers to provide a schedule of contributions which will retire any excess cost over a given period of time, not to exceed fifty (50) years. In the event that such agreements are reached, the amount of the fire insurance premium tax necessary to match additional employer contributions is continuously appropriated for that purpose.

SECTION 58. That Section 63-1605, Idaho Code, be, and the same is hereby amended to read as follows:

63-1605. LOCAL IMPACT FUND. In each county in which a local impact committee is formed, under the provisions of this chapter, there is hereby created and established in the county treasury a local impact fund to which all prepaid ad valorem taxes shall be credited as received.

Moneys in the local impact fund may be expended or transferred to a taxing district only upon the approval of the board of county commissioners with the advice of the local impact committee, any other provisions of law notwithstanding.

The preparation of a budget for the moneys in the fund shall be controlled by the provisions of this chapter, any other provision of law notwithstanding.

The expenditure of moneys from the fund, or the transfer of moneys in the fund to a taxing district, shall be exempt from the provisions of chapter 16, title 31, Idaho Code~~, from the provisions of section 63-923, Idaho Code, and from the provisions of section 63-2220, Idaho Code.~~

~~The moneys received by any taxing district from the local impact fund shall be exempt from the provisions of sections 63-923 and 63-2220, Idaho Code.~~

SECTION 59. That Section 63-1607, Idaho Code, be, and the same is hereby amended to read as follows:

63-1607. CREDIT FOR PREPAID TAXES. During the last one-half (1/2) of the impact period and for not to exceed three (3) years thereafter, each taxpayer who has prepaid taxes shall be allowed a credit for such taxes paid during the first one-half (1/2) of the impact period. The credit shall be allowed against the actual taxes assessed to the taxpayer by the taxing district which received prepaid taxes from the local impact fund, and shall be calculated to provide an approximately equal credit during each year that the credit is allowed. Allowances

necessary as a credit for prepaid taxes shall not be included as a part of the dollar limitations required by section 63-~~2220~~802, Idaho Code. Any extension of time during which the credit may be allowed shall require the approval of the local impact committee.

SECTION 60. That Section 63-1703, Idaho Code, be, and the same is hereby amended to read as follows:

63-1703. CERTAIN FOREST LANDS TO BE DESIGNATED FOR TAXATION BY OWNER -- LIMITATIONS. For the purposes of appraisal, assessment and taxation under the provisions of this chapter, all forest lands in parcels of five (5) or more acres but less than two thousand (2,000), whether contiguous or not, as long as such parcels are held in common ownership, must be designated by the forest landowner to be subject to the provisions of either subsection (a) or (b) of this section. A forest landowner cannot have parcels designated under the provisions of both subsections (a) and (b) of this section at one (1) time. If the forest landowner fails to make a designation, his forest lands shall be subject to appraisal, assessment and taxation under the provisions of section 63-1702, Idaho Code. Once a designation is made by the forest landowner, such designation must remain in effect until the designation period expires, unless the forest lands are transferred to another owner using a different taxing category; in such case, the taxing category of the transferred forest lands shall be the same as that maintained by the new owner.

A forest landowner may change the designation of all forest lands in common ownership at the end of any designation period, subject to the recapture of any deferred taxes due as a result of such change. After January 1 and by December 31 of the tenth year of each designation period the forest landowner must notify the county assessor of any change in forest land designation. Failure to notify the county assessor will result in the continuation of the landowner's present designation until the end of the next designation period.

Any substantial change in the use of forest lands not conforming with the definition of forest land in section 63-1701, Idaho Code, during such ten (10) year period under the designations made in subsection (a) or (b) shall be reported by the landowner to the county assessor within thirty (30) days of the change in use. Upon notification of the change in use, the assessor shall appraise, assess and tax those acres as provided by applicable laws and rules. Failure to notify the assessor of the change in use when forest lands have been designated as subject to the provisions of subsection (a) or (b) shall cause forfeiture of such designation, and cause that property to be appraised, assessed and taxed as provided in section 63-1702, Idaho Code.

Forest lands designated for assessment pursuant to the provisions of section 63-1706, Idaho Code, shall be subject to the recapture of deferred taxes upon removal of such designation, a substantial change in use, or ownership transfer, except that there shall be no recapture initiated upon ownership transfer of forest lands designated as subject to the provisions of section 63-1706, Idaho Code, to a landowner with forest lands already designated as subject to the provisions of section 63-1706, Idaho Code, prior to the transfer, or who so desig-

nates his lands to be subject to the provisions of section 63-1706, Idaho Code.

The dollar amount of deferred taxes subject to recapture shall be determined by the county assessor ~~by~~ applying current tax levies against the current values that would have been in effect if the lands were subject to appraisal and assessment during the current year under the provisions of section 63-1705, Idaho Code, if there has been a change in ownership or a removal of designation, or section 63-1702, Idaho Code, if there has been a change in use with no change in ownership, which amount shall be multiplied by the number of years that the lands have been subject to the designation under section 63-1706, Idaho Code. The amount of the deferred tax shall accrue through designation periods, up to a maximum of ten (10) years, and shall apply to the most recent ten (10) years in which the parcel has been designated under the provisions of section 63-1706, Idaho Code. A credit shall be allowed for taxes actually paid under the provisions of section 63-1706, Idaho Code, for an identical ten (10) year period, up to the total amount of the deferred taxes. All deferred amounts shall be a lien against the land. Deferred tax amounts shall be calculated by the county assessor on forms prescribed by the state tax commission. Deferred tax amounts shall be supplied by the county assessor to the county treasurer by May 15 of the year following conveyance or within thirty (30) days of removal of designation, or of learning of a change in use. All deferred tax amounts shall be due and payable to the county treasurer on demand and shall become delinquent if not paid by the demand due date specified by the county treasurer on the forms prescribed by the state tax commission. If the deferred tax is not paid as provided above, the payment becomes delinquent and subject to ~~a penalty~~ late charges, and interest in the amounts provided in sections 63-~~1102~~201(6) and 63-1001, Idaho Code, and subject to collection in the manner as set forth in ~~sections 63-1123 and 63-1117~~ chapter 10, title 63, Idaho Code. Estimated deferred tax amounts may be held by the county treasurer in a tax anticipation account from the date of conveyance until June 1 of the year following conveyance.

The county treasurer shall cause the deferred taxes and any penalty and interest paid pursuant to the provisions of this section to be apportioned to the various taxing authorities within which the property subject to the tax is located in the same manner as property taxes.

(a) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1705, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1705, Idaho Code, shall become effective the first day of January following the year of designation.

(b) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1706, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1706, Idaho Code, shall become effective the first day of January following the year of designation.

(c) All forest products or timber harvested from investment lands not designated as subject to the provisions of section 63-1702,

63-1705 or 63-1706, Idaho Code, and delivered to a point of utilization as logs or semiprocessed forest products (except those forest products harvested for the domestic use of the landowner under the provisions of section 63-1708, Idaho Code) shall be subject to the yield tax at the time of harvest in the same manner provided for in section 63-1706, Idaho Code.

SECTION 61. That Section 63-1705, Idaho Code, be, and the same is hereby amended to read as follows:

63-1705. TAXATION OF LARGE-SIZE FOREST TRACTS. (1) In order to encourage private forest landowners to retain and improve their holdings of forest lands and to promote better forest management, large-sized forest tracts shall be appraised, assessed and taxed as real property under the provisions of this section.

(2) The inventory of timber and other forest products growing on large-sized forest tracts shall not be included as a part of the total forest asset. The forest value shall be determined by an income approach which capitalizes the value of the average annual net wood production over a reasonable rotation period plus other agricultural-related income, if any, less annualized expenses including, but not limited to, the establishment, protection, maintenance, improvement and management of the crop over the rotation period.

(3) The market value for assessment purposes shall be determined by the county assessor under rules ~~and regulations~~ prescribed by the state tax commission. In prescribing such rules ~~and regulations~~, the tax commission shall:

(a) Divide the state into appropriate forest valuation zones, with each zone designated so as to recognize the uniqueness of marketing areas, timber types, growth rates, access, operability, and other pertinent factors of that zone; and

(b) Establish a uniform system of forest land classification which considers the productive capacity of the soil to grow forest products and furnish other associated agricultural uses.

(4) The state tax commission shall by March 1 of each year, furnish the county assessor for each value zone the capitalization rate, stumpage value, agricultural-related income, if any, and expense component to be used in determining the forest value. The capitalization rate shall be determined in accordance with the procedures prescribed for the determining of the capitalization rate for agricultural lands by section 63-~~105CC~~602K, Idaho Code. Stumpage values shall be based upon the preceding five (5) year rolling average value of timber harvested within the forest value zone from state timber sales and/or the best available data for the same five (5) year period. Average agricultural-related income and the average expense component for each forest value zone shall be determined for the same time period as the period used to determine average stumpage values.

(5) Forest lands upon which, at any time after January 1, 1982, the trees are destroyed by fire, disease, insect infestation or other natural disaster such that the lands affected will not meet minimum stocking requirements under rules ~~and regulations~~ adopted pursuant to chapter 13, title 38, Idaho Code, shall be eligible for a reduction in value for the first ten (10) property tax years following the loss.

The amount of reduction shall be determined by dividing the average age of the trees destroyed by the rotation age for the specific forest value zone in which the property is located. In no instance shall the annual reduction exceed eighty percent (80%) of the original forest value per year. In order to obtain a reduction, the landowner shall on or before January 1 following the destruction, make written application to the assessor indicating the legal description of the lands in question and stating all pertinent facts. The assessor may investigate the facts and may request assistance from the state tax commission in performing such investigations. If the requirements are met, such forest lands shall be assessed and taxed on the reduced basis herein provided.

(6) Buildings and other improvements, other than roads, located on forest lands shall be appraised, assessed and taxed as provided by applicable laws~~,~~ and rules ~~and regulations~~.

SECTION 62. That Section 63-2434, Idaho Code, be, and the same is hereby amended to read as follows:

63-2434. ENFORCEMENT PROVISIONS. For the purpose of carrying out its duties to enforce or administer the provisions of this chapter, the commission shall have the powers and duties provided by sections 63-3038, 63-3039, 63-3042 through 63-3066, 63-3068, 63-3071, 63-3074 through 63-3078, and 63-~~2221--through-63-2223~~217, Idaho Code, which sections are incorporated by reference herein as though set out verbatim.

SECTION 63. That Section 63-3077, Idaho Code, be, and the same is hereby amended to read as follows:

63-3077. INFORMATION FURNISHED TO CERTAIN OFFICIALS. (a) The state tax commission, under such rules as it may prescribe, may permit, notwithstanding the provisions of this act as to secrecy, the commissioner of internal revenue of the United States or his delegate or the proper officer of any state imposing a tax on or according to income or the multistate tax commission or its delegate to inspect the income tax returns of any taxpayer making returns under this act, or may furnish to such officer or his authorized representative an abstract of any income tax return or any matter contained in any affidavit, statement, or certificate made or filed in connection with any return or any tax or credit claimed as an offset against any tax or any information disclosed by the report of any investigation relating to the income or tax of any taxpayer; but such permission shall be granted or information furnished to such officer or his representatives only if the statutes of the United States or such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this act.

(b) Notwithstanding the provisions of this act as to secrecy, any duly constituted committee of either branch of the state legislature shall have the right to inspect returns upon request.

(c) Nothing in this act shall prohibit a taxpayer, or his authorized representative, upon proper identification, from inspecting or

copying his own income tax returns.

(d) Any resident or part-year resident individual taxpayer making a return, whether accrual or cash basis, shall furnish the state tax commission with the location of any residential property owned by the taxpayer and occupied by the taxpayer as his primary dwelling place on the first day of January of the year following the year to which the tax return relates. The state tax commission is hereby authorized and empowered to deliver to the county assessor of any county of the state of Idaho information relating to a taxpayer's place of residence or domicile. The information may be used by county assessors and boards of equalization to assist in determining the validity of any homeowner's entitlement to the exemption provided in section 63-~~105DD~~602G, Idaho Code. Information disclosed to county officials under this subsection may be used only to determine the validity of any homeowner's entitlement to the exemption provided in section 63-~~105DD~~602G, Idaho Code, and is not otherwise subject to public disclosure.

(e) The state tax commission additionally is authorized to utilize any centralized state computer facility.

SECTION 64. That Section 63-3102, Idaho Code, be, and the same is hereby amended to read as follows:

63-3102. AUTHORITY TO BORROW MONEY. Any taxing district shall have power from time to time by resolution to borrow money and issue revenue anticipation bonds or notes, bearing interest at such rate as may be determined by the governing board, and maturing not more than one (1) year from the date thereof, for the purpose of providing funds in anticipation of the collection of taxes of the current fiscal year, in anticipation of the distribution of state appropriated funds, and in anticipation of other revenues of any nature, for the year in which said revenue anticipation bonds or notes are issued, exclusive of taxes required to be raised to pay the principal of outstanding bonded indebtedness of the taxing district, the proceeds of such bonds or notes to be used for the purpose for which said taxes are levied or such funds or other revenues are appropriated. The amount authorized to be borrowed by means of such revenue anticipation bonds or notes shall not exceed seventy-five per cent (75%) of the taxes levied for the current fiscal year and not yet collected by said taxing district, seventy-five per cent (75%) of the anticipated distribution from the public school income fund not yet collected for the current fiscal year, and seventy-five per cent (75%) of other revenues anticipated, as shown by the budget duly adopted by the taxing district and certified in accordance with section 63-~~624A~~804, Idaho Code, and not yet collected for the fiscal year. If the tax levy or budget for any fiscal year has not been completed, then the amount of revenue anticipation bonds or notes issued in anticipation of taxes, state funds, or other revenues to be levied for such fiscal year shall not exceed seventy-five per cent (75%) of the taxes levied or state funds or other revenues received by said taxing district in the previous fiscal year. In determining the amount of revenue anticipation bonds or notes which may be issued, the governing body shall declare in the resolution providing for the issuance of such bonds or notes the amount of taxes

levied or state funds or other revenues anticipated for the current fiscal year and the amount of such taxes or state funds or other revenues anticipated not yet collected by said taxing district, or in the event that the tax levy or budget for the fiscal year has not been completed, the governing authority shall declare in the resolution providing for the issuance of such revenue anticipation bonds or notes the amount of taxes levied or state funds or other revenues received by said taxing district in the previous fiscal year. In each instance, taxes raised or to be raised to pay the principal of outstanding bonded indebtedness of the taxing district shall not be included in the amount of taxes or state funds or other revenues anticipated against which such revenue anticipation bonds or notes are authorized to be issued. Such revenue anticipation bonds or notes shall be negotiable instruments, and the full faith, credit and resources of the taxing district shall be pledged for the payment of the same. Such bonds or notes shall be issued in such form and detail as shall be determined by the governing authority of the taxing district by resolution duly adopted.

SECTION 65. That Section 63-3402a, Idaho Code, be, and the same is hereby amended to read as follows:

63-3402a. OFFICE OF STATE TAX COLLECTOR ABOLISHED -- POWERS AND DUTIES TRANSFERRED TO STATE TAX COMMISSION. The office of the state tax collector is hereby abolished and all the powers and duties conferred and imposed upon, assigned to, and vested in the tax collector by section 63-3403, Idaho Code, by chapter 36, title 63, (known as "The Idaho Sales Tax Act") by sections 23-1047 to 23-1056, Idaho Code, inclusive, by sections 57-1108 to 57-1113, Idaho Code, inclusive, by chapter 5, title 14, Idaho Code, and by any and all other laws of the state of Idaho, are hereby removed from the tax collector of the state of Idaho and conferred and imposed upon, assigned to and vested in the state tax commission provided for by chapter ~~5~~1, title 63, Idaho Code, and the state tax commission shall exercise all the powers and perform all the duties created and prescribed by such laws of the state of Idaho. After the effective date of this amendatory act, all reference in the laws of the state of Idaho to the state tax collector shall be taken to mean and refer to the state tax commission.

SECTION 66. That Section 63-3503, Idaho Code, be, and the same is hereby amended to read as follows:

63-3503. FILING OPERATORS' STATEMENT -- ALLOTMENT AND APPORTIONMENT OF TAX BY STATE TAX COMMISSION. Every cooperative electrical association in this state shall file with the state tax commission of the state of Idaho the operators' statement provided for in section 63-~~704~~404, Idaho Code, and shall include thereon a statement of the amount of its gross earnings for the calendar year next preceding. Upon examining and verifying said statement the state tax commission shall compute the amount of the tax measured by the gross earnings and shall allot to each county in which the operating property of such association is situate that proportion of the total tax of such association shown to be due as the number of wire miles of transmission

and distribution lines of such association situate in such county bears to the total wire miles of transmission and distribution lines of such association. The state tax commission shall then, for each county, apportion the tax so allotted to the county among the several taxing units thereof within which any operating property of such association is situate, by apportioning to each such taxing unit that proportion of the tax so allotted to the county as the weighted wire mileage factor for each such taxing unit bears to the total of the weighted wire mileage factors of all such taxing units in the county, and shall immediately notify the state superintendent of public instruction and the county treasurer of such allotment and apportionment and the amounts thereof.

SECTION 67. That Section 63-3622JJ, Idaho Code, as added by Section 1, Chapter 434, Laws of 1990, be, and the same is hereby amended to read as follows:

63-3622~~JJ~~KK. INCIDENTAL SALES BY RELIGIOUS CORPORATIONS OR SOCIETIES. (1) Whenever any religious corporation or society as enumerated in section 63-~~105~~602B, Idaho Code, purchases tangible personal property upon which it has paid the tax imposed by this chapter, or acquires tangible personal property via gift, the sale of such property as well as any other sale defined in sections 63-3612, 67-4711 and 67-4917A, Idaho Code, by the religious corporation or society shall be exempt from the taxes imposed in this chapter, or by any political subdivision of the state. The exemption provided in this section shall be valid as long as the proceeds from the sale are used exclusively in the programs of the corporations or societies as enumerated in section 63-~~105~~602B, Idaho Code. If at any time, tangible personal property or other items defined in sections 63-3612, 67-4711 and 67-4917A, Idaho Code, are offered for sale to or used by the general public in the open market in regular competition with commercial enterprise, the sale shall be subject to the taxes imposed by this chapter or by any political subdivision of the state.

(2) As used in this section:

(a) "Commerical" relates to or is connected with trade and traffic or commerce in general and is occupied with business or commerce.

(b) "Competition" means the effort of two (2) or more persons, as defined in section 63-3607, Idaho Code, acting independently to secure the business of a third person by the offer of the most favorable terms.

(c) "General public" means the community at large as opposed to select members of the community.

(d) "Market" means a place of commercial activity in which articles are bought and sold.

SECTION 68. That Section 63-3638, Idaho Code, be, and the same is hereby amended to read as follows:

63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this chapter, except as may otherwise be required in section 63-3203, Idaho Code, shall be distributed by the tax commission as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(b) Five hundred thousand dollars ($500,000) per year is continuously appropriated and shall be distributed to the permanent building account, provided by section 57-1108, Idaho Code.

(c) Four million eight hundred thousand dollars ($4,800,000) per year is continuously appropriated and shall be distributed to the water pollution control account established by section 39-3605, Idaho Code.

(d) (1) An amount equal to the sum required to be certified by the chairman of the Idaho housing agency to the state tax commission pursuant to section 67-6211, Idaho Code, in each year is continuously appropriated and shall be paid to any capital reserve fund, established by the Idaho housing agency pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing agency shall be repaid for distribution under the provisions of this section, subject to the provisions of section 67-6215, Idaho Code, by the Idaho housing agency, as soon as possible, from any moneys available therefor and in excess of the amounts which the agency determines will keep it self-supporting.

(2) An amount equal to the sum required by the provisions of section 63-~~124~~709, Idaho Code, is continuously appropriated and shall be paid as provided by section 63-~~124~~709, Idaho Code.

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

(e) Six per cent (6%) is hereby appropriated and shall be paid to the county treasurer of each county in amounts to be determined as follows:

(1) Each taxing district other than school districts shall be entitled to a base share of sales tax moneys equal to the amount distributed to that district for the fourth calendar quarter of 1979. The computation shall not include any distributions made to the credit of either the former county school levy or the state water pollution control levy. The percentage so determined for each taxing district shall be applied each quarter to the above percentage of sales tax. The resulting sums shall be paid to the county treasurer of each county for distribution to each taxing district, except school districts, which received sales tax moneys in 1979. Whenever a taxing district is dissolved, the dissolved district's share of sales moneys shall be credited continuously to the county current expense fund.

(2) Whenever the amount of nonschool district sales tax moneys distributed exceeds in any quarter the total amount of moneys distributed to nonschool districts for the base quarter, which is the fourth calendar quarter of 1979, by ten per cent (10%), or more, the excess of the base quarter shall be paid to the county treasurer of each county for distribution to each taxing district in the county, except school districts, in the following manner.

The state tax commission shall compute the percentage that the average amount of taxes collected from assessments for the

years 1965, 1966 and 1967 on the personal property described as business inventory in section 63-~~105V~~602W, Idaho Code, for each county bears to the average total amount of taxes collected from assessments for said years on the personal property described as business inventory in section 63-~~105V~~602W, Idaho Code, for all counties in the state. The percentage so determined for each county shall be applied to the sales tax distributed under this subsection and the resulting sum shall be paid to the county treasurer of each county for distribution to each taxing district, except school districts, in the county as follows:

(i) The county commissioners in each county shall take the tax charge, applicable to the first real and personal property rolls equalized by county commissioners sitting as a board of equalization, of each taxing district within the county, except school districts, and divide it by the total current tax charges applicable to those first real and personal property rolls of all taxing districts, except school districts, within said county and the resulting percentages shall be applied to the county's proportionate share of said sales tax account and the resulting amount shall be distributed to each taxing district in the county periodically but not less frequently than quarterly by the county auditor and applied by such taxing districts in the same manner and in the same proportions as revenues from ad valorem taxation.

(ii) The moneys set aside and appropriated to the county treasurer out of the sales tax account above may be considered by the counties and other taxing districts and budgeted against at the same time, in the same manner and in the same year as revenues from taxation on all classes of personal property which these moneys replace.

(3) All moneys distributed pursuant to subsection (e) shall be subject to the redistribution provisions of section 40-801, Idaho Code, where applicable.

(f) One dollar ($1.00) on each application for certificate of title to a motor vehicle, or initial application for registration processed by the county assessor or the Idaho transportation department excepting those applications in which any sales or use taxes due have been previously collected by a retailer, shall be a fee for the services of the assessor of the county or the Idaho transportation department in collecting such taxes, and shall be paid into the current expense fund of the county or state highway account established in section 40-702, Idaho Code.

(g) Seven and three-quarters per cent (7.75%) is continuously appropriated and shall be distributed to the revenue sharing account which is created in the state operating fund, and the moneys in the revenue sharing account will be paid by the tax commission as follows:

(1) One-half (1/2) shall be paid to the various cities as follows:

(i) Fifty per cent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the population of that city bears to the population of all cities within the state; and

(ii) Fifty per cent (50%) of such amount shall be paid to

the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment purposes for that city bears to the preceding year's market value for assessment purposes for all cities within the state.

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

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

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

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

SECTION 69. That Section 63-3811, Idaho Code, be, and the same is hereby amended to read as follows:

63-3811. APPEAL FROM DETERMINATION OF TAX LIABILITY. Taxpayers may, within the period herein provided and by following the procedures herein required, appeal to the board of tax appeals from a final determination of any tax liability, including those pursuant to sections 63-4501, 63-~~2210~~0511, 63-3049, and 63-3632, Idaho Code.

SECTION 70. That Section 63-3815, Idaho Code, be, and the same is hereby amended to read as follows:

63-3815. SMALL CLAIMS DIVISION OF BOARD OF TAX APPEALS -- JURISDICTION. 1. There shall be a division of the Idaho board of tax appeals known as the small claims division.

2. Members of the board of tax appeals shall sit as members of the small claims division.

3. The small claims division shall have jurisdiction of the following classes of cases upon election by the taxpayer pursuant to section 63-3816, Idaho Code:

(a) an appeal by a taxpayer from the state tax commission for refund of income taxes authorized by section 63-3072, Idaho Code, where the refund claimed does not exceed one hundred dollars ($100), exclusive of interest and penalties;

(b) an appeal by a taxpayer from the state tax commission redetermination of an income tax deficiency authorized by section 63-3049, Idaho Code, where the protested deficiency does not exceed one hundred dollars ($100), exclusive of interest and penalties;

(c) an appeal by a taxpayer from the state tax commission for refund of sales taxes authorized by section 63-3626, Idaho Code, where the refund claimed does not exceed one hundred dollars ($100), exclusive of interest and penalties;

(d) an appeal by a taxpayer from the state tax commission redetermination of a sales tax deficiency authorized by section

63-3632, Idaho Code, where the protested deficiency does not exceed one hundred dollars ($100), exclusive of interest and penalties;

(e) an appeal by a taxpayer from any county board of equalization decision, or failure of any county board of equalization to make a decision which has the effect of:

(1) denying an exemption claim in whole or part under section 63-4501, Idaho Code, or

(2) concerning the value of property for ad valorem tax purposes authorized by section 63-~~2210~~511, Idaho Code, where the full market value of the property, including improvements, brought into question under (1) or (2) of this subsection does not exceed twenty-five thousand dollars ($25,000) on real property, or ten thousand dollars ($10,000) on personal property, exclusive of interest and penalties;

(f) an appeal by a taxpayer from a decision of any county officer, or failure of any county officer to make a decision, which has the effect of denying in whole or part a petition for cancellation of ad valorem taxes, if such appeal is otherwise authorized by section 63-3811, Idaho Code, and where the full market value of the property, including improvements, which is subject of the taxes sought to be canceled does not exceed twenty-five thousand dollars ($25,000) on real property, or ten thousand dollars ($10,000) on personal property, exclusive of interest and penalties.

SECTION 71. That Section 67-8208, Idaho Code, be, and the same is hereby amended to read as follows:

67-8208. CAPITAL IMPROVEMENTS PLAN. (1) Each governmental entity intending to impose a development impact fee shall prepare a capital improvements plan. That portion of the cost of preparing a capital improvements plan which is attributable to determining the development impact fee may be funded by a one (1) time ad valorem levy ~~exempt from the provisions of sections 63-2225 and 63-923, Idaho Code,~~ which does not exceed two one-hundredths per cent (.02%) of market value or by a surcharge imposed by ordinance on the collection of a development impact fee which surcharge does not exceed the development's proportionate share of the cost of preparing the plan. For governmental entities required to undertake comprehensive planning pursuant to chapter 65, title 67, Idaho Code, such capital improvements plan shall be prepared and adopted according to the requirements contained in the local planning act, section 67-6509, Idaho Code, and shall be included as an element of the comprehensive plan. The capital improvements plan shall be prepared by qualified professionals in fields relating to finance, engineering, planning and transportation. The persons preparing the plan shall consult with the development impact fee advisory committee.

The capital improvements plan shall contain all of the following:

(a) A general description of all existing public facilities and their existing deficiencies within the service area or areas of the governmental entity and a reasonable estimate of all costs and a plan to develop the funding resources related to curing the

existing deficiencies including, but not limited to, the upgrading, updating, improving, expanding or replacing of such facilities to meet existing needs and usage;

(b) A commitment by the governmental entity to use other available sources of revenue to cure existing system deficiencies where practical;

(c) An analysis of the total capacity, the level of current usage, and commitments for usage of capacity of existing capital improvements, which shall be prepared by a qualified professional planner or by a qualified engineer licensed to perform engineering services in this state;

(d) A description of the land use assumptions by the government entity;

(e) A definitive table establishing the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of system improvements and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, agricultural and industrial;

(f) A description of all system improvements and their costs necessitated by and ~~and~~ attributable to new development in the service area based on the approved land use assumptions, to provide a level of service not to exceed the level of service adopted in the development impact fee ordinance;

(g) The total number of service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(h) The projected demand for system improvements required by new service units projected over a reasonable period of time not to exceed twenty (20) years~~.~~;

(i) Identification of all sources and levels of funding available to the governmental entity for the financing of the system improvements;

(j) If the proposed system improvements include the improvement of public facilities under the jurisdiction of the state of Idaho or another governmental entity, then an agreement between governmental entities shall specify the proportionate share of funding by each unit, provided the agreement shall not permit expenditure of development impact fees by a governmental entity which is not authorized to imposed development impact fees nor shall the governmental entity authorized to impose development impact fees assume more than its proportionate share of funding joint improvements; and

(k) A schedule setting forth estimated dates for commencing and completing construction of all improvements identified in the capital improvements plan.

(2) The governmental entity imposing a development impact fee shall update the capital improvements plan at least once every five (5) years. The five (5) year period shall commence from the date of the original adoption of the capital improvements plan. The updating of the capital improvements plan shall be made in accordance with procedures set forth in section 67-8206, Idaho Code.

(3) The governmental entity must annually adopt a capital budget.

SECTION 72. That Section 70-1702, Idaho Code, be, and the same is hereby amended to read as follows:

70-1702. TAX LEVY. The port commission shall, prior to the 13th day of June in each year, determine the tax levy for the next ensuing fiscal year as provided in section 63-~~624~~803, Idaho Code, which levy for any such year, for all purposes, except the payment of the principal and interest of the general bonded indebtedness of the port, shall not exceed one-tenth percent (.1%) of the market value for assessment purposes on all taxable property in such port district.

SECTION 73. This act shall be in full force and effect on and after January 1, 1997.

Approved March 18, 1996.

CHAPTER 323
(H.B. No. 807)

AN ACT

RELATING TO THE PRIEST LAKE MANAGEMENT PLAN; ADOPTING THE PRIEST LAKE MANAGEMENT PLAN ADOPTED IN NOVEMBER, 1995, AND AMENDED FEBRUARY 16, 1996 AND TO PROVIDE DIRECTIONS TO THE LEGISLATURE, STATE AGENCIES, POLITICAL SUBDIVISIONS, THE PRIEST LAKE MANAGEMENT TEAM AND THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE.

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

SECTION 1. Pursuant to the requirements of subsection 3.p. of Section 39-105, Idaho Code, the Priest Lake Management Plan, adopted in November, 1995, and amended February 16, 1996, be, and the same is hereby approved. The Legislature of the State of Idaho, state agencies and political subdivisions shall take appropriate actions to implement the plan. The Director of the Department of Health and Welfare shall, in cooperation with other state agencies, political subdivisions and the Priest Lake Planning Team, ensure consistency with the Priest Lake Management Plan and Chapter 36, Title 39, Idaho Code, so that the plan and its implementation are in concert with the provisions of Chapter 36, Title 39, Idaho Code.

Approved March 18, 1996.

CHAPTER 324
(H.B. No. 797)

AN ACT

RELATING TO THE RESIDENTIAL MORTGAGE PRACTICES ACT; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 31, TITLE 26, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE

FOR EXEMPTIONS FROM APPLICATION OF THE CHAPTER, TO PROVIDE UNLAWFUL ACTS AND PENALTIES, TO PROVIDE POWERS AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF FINANCE, TO PROVIDE REMEDIES AVAILABLE TO THE DEPARTMENT, TO PROVIDE THAT BORROWERS' REMEDIES ARE NOT AFFECTED, TO REQUIRE A LICENSE TO DO BUSINESS AS A MORTGAGE BANKER OR MORTGAGE BROKER, TO PROVIDE REQUIREMENTS FOR LICENSURE AND TO PROVIDE POWERS AND DUTIES OF THE DIRECTOR WITH RESPECT TO LICENSURE, TO PROVIDE FOR REVOCATION OR SUSPENSION OF A LICENSE, TO PROVIDE FOR SURETY BONDS AND TRUST ACCOUNTS, TO PROVIDE FOR RECORDS, ANNUAL REPORTS AND RENEWAL OF LICENSES, TO PROVIDE FOR EXAMINATION AND INVESTIGATIONS, TO PROVIDE FOR RESTRICTIONS ON FEES AND CHARGES, TO PROVIDE PROHIBITED PRACTICES, TO PROVIDE FOR SEVERABILITY AND TO PROVIDE FOR INITIAL LICENSING AND COMPLIANCE; AND AMENDING SECTION 26-2502, IDAHO CODE, TO PROVIDE THAT THE LOAN BROKER ACT SHALL NOT APPLY TO A PERSON LICENSED UNDER THE RESIDENTIAL MORTGAGE PRACTICES ACT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 31, Title 26, Idaho Code, and to read as follows:

CHAPTER 31
RESIDENTIAL MORTGAGE PRACTICES

26-3101. SHORT TITLE. This chapter may be known and may be cited as the "Residential Mortgage Practices Act."

26-3102. DEFINITIONS. As used in this chapter:

(1) "Act" shall mean this Idaho residential mortgage practices act.

(2) "Borrower" shall mean the person who has applied to a lender for a residential mortgage loan or on whose behalf the activities set forth in subsection (13) of this section are conducted.

(3) "Department" means the department of finance of the state of Idaho.

(4) "Director" means the director of the department of finance.

(5) "Licensee" shall mean a person licensed pursuant to this chapter to engage in the activities regulated by this act.

(6) "Mortgage banker" shall mean any person, other than an exempt person, who makes residential mortgage loans to borrowers, and performs the activities described in subsection (12) of this section.

(7) "Mortgage broker" shall mean any person, other than an exempt person, who performs the activities described in subsection (13) of this section with respect to a residential mortgage loan. For the purposes of this chapter, the term "mortgage broker" does not include persons who are mortgage bankers.

(8) "Mortgage brokerage agreement" shall mean a written agreement in which a mortgage broker agrees to obtain a residential mortgage loan for the borrower or assist the borrower in obtaining a residential mortgage loan.

(9) "Person" means an individual, sole proprietorship, partner-

ship, corporation, or other association of individuals, however organized.

(10) "Residential mortgage loan" shall mean a loan made primarily for personal, family, or household use and primarily secured by a security interest on residential real property located in this state.

(11) "Residential real property" shall mean real property located in this state improved by a one (1) to four (4) family dwelling used as the primary home or residence of one (1) or more persons or located in a platted subdivision.

(12) "Mortgage banking activities" shall mean for compensation or gain, either directly or indirectly, accepting or offering to accept applications for residential mortgage loans, assisting or offering to assist in the preparation of an application for a residential mortgage loan.

(13) "Mortgage brokering activities" shall mean for compensation or gain, either directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the preparation of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with any person making residential mortgage loans.

26-3103. EXEMPTIONS. The provisions of this chapter do not apply to:

(1) Agencies of the United States and agencies of this state and its political subdivisions;

(2) An owner of real property who offers credit secured by a contract of sale, mortgage or deed of trust on the property sold;

(3) A loan that is made by a person to an employee of that person if the proceeds of the loan are used to assist the employee in meeting his housing needs;

(4) Any person licensed or chartered under the laws of this state or the United States as a bank, regulated lender licensed under the Idaho credit code and regularly engaged in making regulated consumer loans other than those secured by a security interest in real property, savings and loan association, credit union, or trust company;

(5) Any person licensed or chartered under the laws of any other state as a bank, savings and loan association, or credit union;

(6) Attorneys, or persons licensed under either chapter 2 or chapter 20, title 54, Idaho Code; nor

(7) Persons employed by licensees on a full-time basis or persons who are employed by no more than one (1) licensee on a part-time basis.

26-3104. UNLAWFUL ACTS. (1) No person, except a person exempt under section 26-3103, Idaho Code, shall engage in mortgage banking activities or mortgage brokering activities without first obtaining a license from the department in accordance with this chapter.

(2) Any person, not exempt under section 26-3103, Idaho Code, who engages in mortgage banking activities or mortgage brokering activities without a license issued pursuant to this chapter, shall be guilty of a felony.

26-3105. POWERS AND DUTIES OF DIRECTOR. In addition to any other duties imposed upon the director by law, the director shall:

(1) Administer and enforce the provisions and requirements of this chapter;

(2) Conduct investigations and issue subpoenas as necessary to determine whether a person has violated any provision of this chapter or rules promulgated under the authority of this chapter;

(3) Conduct examinations of the books and records of licensees and conduct investigations as necessary and proper for the enforcement of the provisions of this chapter and the rules promulgated under the authority of this chapter;

(4) Appoint a volunteer advisory board which shall consist of two (2) individuals who are mortgage bankers and two (2) individuals who are mortgage brokers;

(5) Pursuant to chapter 52, title 67, Idaho Code, issue orders and promulgate rules that, in the opinion of the director, are necessary to execute, enforce and effectuate the purposes of this chapter;

(6) Be authorized to set, by annual written notification to licensees, limits on the fees and charges which are set forth in subsections (1) and (2) of section 26-3113, Idaho Code;

(7) Require that all funds collected by the department under this chapter shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code; and

(8) Review and approve all forms used by licensees prior to their use.

26-3106. REMEDIES AVAILABLE TO THE DEPARTMENT. (1) Whenever it appears to the director that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order thereunder, he may in his discretion bring an action in any court of competent jurisdiction, and upon a showing of any violation there shall be granted any or all of the following:

(a) A writ or order restraining or enjoining temporarily or permanently, any act or practice violating any provision of this chapter or any rule promulgated pursuant thereto, and to enforce compliance under this chapter or any rule or order hereunder;

(b) An order that the person violating any provision of this chapter, or a rule or order hereunder pay a civil penalty to the department in an amount not to exceed five thousand dollars ($5,000) for each violation;

(c) An order allowing the director to recover costs which may include investigative expenses and attorney's fees;

(d) An order granting a declaratory judgment that a particular act, practice or method is a violation of the provisions of this chapter;

(e) An order granting other appropriate remedies including restitution to borrowers for excess charges or actual damages.

(2) If the director finds that a person has violated or is violating, or that there is reasonable cause to believe that a person is about to violate the provisions of this chapter, the director may, in his discretion, order the person to cease and desist from the violations.

26-3107. BORROWERS' REMEDIES NOT AFFECTED. The grant of powers to the director in this chapter does not limit remedies available to borrowers under this chapter or under other principles of law or equity.

26-3108. LICENSE TO DO BUSINESS AS A MORTGAGE BANKER OR MORTGAGE BROKER. (1) The director shall receive and act on all applications for licenses to do business as a mortgage banker or mortgage broker. Applications shall be filed in the manner prescribed by the director, shall contain such information as the director may reasonably require, and shall be accompanied by an application fee of two hundred dollars ($200).

(2) An application for license shall be denied unless the director finds that:

(a) The financial responsibility, character, and fitness of the license applicant, and of the officers and directors thereof, if the applicant is a corporation, are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this chapter;

(b) The applicant or each of the individuals in charge of applicant's places of business in this state, each have a minimum of three (3) years' experience in residential mortgage lending;

(c) The applicant has a net worth of at least ten thousand dollars ($10,000);

(d) The applicant has not been convicted of a felony or misdemeanor involving moral turpitude, nor has a court accepted a finding of guilt on the part of the applicant, of a felony or a misdemeanor involving moral turpitude; and

(e) The applicant has not had a license, substantially equivalent to a license under this chapter and issued by another state, revoked or suspended under the law of such state.

(3) The director is empowered to conduct investigations as he may deem necessary, to enable him to determine the existence of the requirements set out in subsection (2) of this section.

(4) Upon written request, an applicant is entitled to a hearing on the question of his qualifications for a license if:

(a) The director has notified the applicant in writing that his application has been denied, or objections filed;

(b) The director has not issued a license within sixty (60) days after the application for the license was filed. If a hearing is held, the applicant and those filing objections shall reimburse, pro rata, the director for his reasonable and necessary expenses incurred as a result of the hearing. A request for hearing may not be made more than fifteen (15) days after the director has mailed a writing to the applicant notifying him that the application has been denied and stating in substance the director's finding supporting denial of the application or that objections have been filed and the substance thereof.

(5) The director may, on application, issue additional licenses to the same licensee upon compliance with all the provisions of this chapter governing the issuance of a single license. A separate license shall be required for each place of business and the individual in charge of each place of business must satisfy the requirements of subsection (2)(b) of this section. Each license shall remain in

full force and effect unless annual renewal fees are not paid or the license is relinquished, suspended, or revoked.

(6) No licensee shall change the location of any place of business, consolidate two (2) or more locations, or close any location, without giving the director at least fifteen (15) days' prior written notice.

(7) A licensee shall not engage in the business of making or brokering residential mortgage loans at any place of business for which he does not hold a license nor shall he engage in business under any other name than that on the license.

(8) The director may suspend action upon a license application pending resolution of any criminal charges before any court of competent jurisdiction against an applicant which would disqualify that applicant if convicted.

26-3109. REVOCATION OR SUSPENSION OF LICENSE. (1) If the department has reason to believe that grounds exist for revocation or suspension of a license, the department may initiate a contested case against the license of the mortgage banker or mortgage broker in accordance with chapter 52, title 67, Idaho Code. The director may, after proceedings pursuant to chapter 52, title 67, Idaho Code, suspend the license for a period not to exceed six (6) months, or revoke the license, if he finds that:

(a) The licensee or any employee or agent of the licensee has violated this chapter or any rule or order lawfully made pursuant to this chapter; or

(b) The licensee or any employee or agent of the licensee has violated any other laws of this state, or federal laws or regulations pertaining to the mortgage banking or mortgage brokering activities set forth in section 26-3102, Idaho Code; or

(c) Facts or conditions exist which would clearly have justified the director in refusing to grant a license had these facts or conditions been known to exist at the time the license was issued; or

(d) The licensee or any employee or agent of the licensee has been convicted of a felony or a misdemeanor involving moral turpitude, or a court has accepted a finding of guilt on the part of the licensee or employee or agent of the licensee, of any felony or a misdemeanor involving moral turpitude; or

(e) The licensee or any employee or agent of the licensee has had a license substantially equivalent to a license under this chapter, and issued by another state, revoked or suspended under the laws of such state.

(2) If the director finds that probable cause for revocation of a license exists and that enforcement of this chapter and the public interest require immediate suspension of the license pending investigation, he may, after a hearing upon five (5) days' written notice, enter an order suspending the license for not more than thirty (30) days.

(3) Any licensee may relinquish the license by notifying the department in writing of its relinquishment, but this relinquishment shall not affect his liability for acts previously committed.

(4) The director may, in his discretion, reinstate a license,

terminate a suspension, or grant a new license to a person whose license has been revoked or suspended if no fact or condition then exists which clearly would justify the department in refusing to grant a license.

26-3110. SURETY BONDS AND TRUST ACCOUNTS. (1) All licensees, with or without an office located in this state, shall maintain a surety bond to the state of Idaho in accordance with this section. The bond to be maintained shall be in the amount of ten thousand dollars ($10,000). This amount shall be increased by additional sums of five thousand dollars ($5,000) for each office, in addition to an initial office, that the licensee maintains within the state of Idaho. In the event that a licensee has violated any of the provisions of this chapter, any other governing state law, any governing federal law, or in the event that a court of competent jurisdiction has found that a licensee has damaged any person, then the bond shall be forfeited and paid by the surety to the state of Idaho for the benefit of any person damaged by the licensee. The bond shall be a continuing obligation of the issuing surety. The surety's liability under the bond for any claims made thereunder either individually or in the aggregate shall in no event exceed the face amount of the bond issued. The bond shall be issued by a surety authorized to do business in the state of Idaho. The bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be placed on file with the department.

(2) Each licensee shall deposit all fees allowed by section 26-3113, Idaho Code, paid to the licensee by borrowers in a trust account established at a bank, savings and loan association, or credit union located in the state of Idaho. Funds held in a trust account may only be withdrawn in accordance with a written agreement with the borrower.

26-3111. RECORDS -- ANNUAL REPORTS -- RENEWAL OF LICENSE. (1) Every licensee shall maintain records in conformity with generally accepted accounting principles in a manner that will enable the director to determine whether the licensee is complying with the provisions of this chapter. The recordkeeping system of a licensee shall be sufficient if he makes the required information reasonably available. The records need not be kept in the place of business where residential mortgage loans are made, if the director is given free access to the records wherever located. The records pertaining to any loan need not be preserved for more than five (5) years after making the final entry relating to the loan.

(2) On or before August 31 of each year, every licensee shall pay an annual license renewal fee of one hundred dollars ($100), and file with the director a composite annual report for the residential mortgage loans made or brokered by him.

26-3112. EXAMINATION AND INVESTIGATIONS. (1) The director shall examine periodically at intervals he deems appropriate, the loans and business records of each licensee. In addition, for the purpose of discovering violations of the provisions of this chapter or securing information lawfully required, the director may at any time investi-

gate the loans, business, books and records of any such licensee. For these purposes, he shall have free and reasonable access to the offices, places of business, books and records of the licensee. The director, for purposes of examination of licensees herein, shall be paid the actual cost of examination by the licensee, within thirty (30) days of the examination.

(2) If a licensee's records are located outside this state, the licensee shall have the option to make them available to the director at a convenient location within this state, or pay the reasonable and necessary expenses for the director or his representative to examine them at the place where they are maintained. The director may designate representatives, including comparable officials of the state in which the records are located, to inspect them on his behalf.

(3) For the purposes of this section, the director may administer oaths or affirmations, and upon his own motion or upon request of any party, may subpoena witnesses, compel their attendance, adduce evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(4) Upon failure to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby the director may apply to the district court for an order compelling compliance.

26-3113. RESTRICTIONS ON FEES AND CHARGES. (1) With the exception of a loan cancellation fee, a licensee shall not require a borrower to pay any fees or charges prior to a residential mortgage loan closing, except:

(a) Charges actually incurred by the licensee on behalf of the borrower for services which have been rendered by third parties necessary to process the application. These fees may include, but are not limited to, fees for credit reports, flood insurance certifications, property inspections, title insurance commitments, UCC-4 lien searches, and appraisals;

(b) An application fee;

(c) A rate-lock fee; and

(d) A commitment fee upon approval of the residential mortgage loan.

(2) A loan cancellation fee may be charged and collected by a licensee at any time either prior to the scheduled closing of a residential mortgage loan transaction or subsequent thereto.

(3) Any fees charged under the authority of this section must be reasonable and customary as to the type and the amount of the fee charged.

26-3114. PROHIBITED PRACTICES. No licensee shall:

(1) Obtain any exclusive dealing or exclusive agency agreement from any borrower;

(2) Delay closing of any residential mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower;

(3) Accept any fees at closing which were not previously disclosed fully to the borrower;

(4) Obtain any agreement or instrument in which blanks are left to be filled in after execution;

(5) Engage in any misrepresentation in connection with a residential mortgage loan;

(6) Make payment, whether directly or indirectly, of any kind to any in-house or fee appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of any real estate which is to be covered by a residential mortgage loan;

(7) Make any false promises likely to influence or persuade, or pursue a course of misrepresentations and false promises through agents, solicitors, advertising or otherwise; nor

(8) Misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material particulars or the nature thereof, regarding a transaction to which it is a party.

(9) Enter into any agreement, with or without the payment of a fee, to fix in advance a particular interest rate or other term in a residential mortgage loan unless the agreement is in writing and is signed by the parties.

26-3115. 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 circumstances is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

26-3116. INITIAL LICENSING AND COMPLIANCE. A person who conducts any of the activities set forth in subsections (12) and (13) of section 26-3102, Idaho Code, on the effective date of this act shall, within sixty (60) days following the effective date of this act, apply to the department for a license.

SECTION 2. That section 26-2502 Idaho Code, be, and the same is hereby amended to read as follows:

26-2502. EXCEPTIONS. This chapter shall not apply to:

(a) Any person doing business under any law of this state or of the United States relating to banks, credit unions, trust companies, savings and loan associations, insurers, pension trusts, real estate investment trusts and other financial institutions, or under the uniform consumer credit code;

(b) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business;

(c) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured;

(d) Any person who is a F.H.A. (Federal Housing Administration) approved mortgagor;

(e) Loans made by a broker-dealer licensed under the Idaho securities act if the loan is made in accordance with applicable provisions of the Idaho securities act, the securities act of 1933, the ~~S~~securities ~~E~~exchange ~~A~~act of 1934 and ~~R~~regulation T of the ~~F~~federal ~~R~~reserve ~~B~~board, ~~C~~code of ~~F~~federal ~~R~~regulations, part 220 of title 12; or

(f) Fees and charges authorized by laws of this state or the laws of the United States if the maximum charge and the manner of collecting the charge are set out in the law or in regulations adopted under the law.

(g) Any person licensed as a mortgage broker or mortgage banker pursuant to chapter 31, title 26, Idaho Code.

Approved March 18, 1996.

CHAPTER 325
(H.B. No. 790)

AN ACT

RELATING TO PROPERTY EXEMPT FROM TAXATION BECAUSE OF CASUALTY LOSS; AMENDING SECTION 63-105EE, IDAHO CODE, TO REVISE LANGUAGE AND PROCEDURES ALLOWING A PROPERTY TAX EXEMPTION WHEN AN EVENT OCCURS CAUSING CASUALTY LOSS TO ALL OR A PORTION OF REAL AND PERSONAL PROPERTY, TO PROVIDE FOR AN APPLICATION AND TO REVISE DATES WHEN THE CLAIM MAY BE GRANTED; AMENDING SECTION 63-3905, IDAHO CODE, TO PROVIDE A STATUTORY CITATION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-105EE, Idaho Code, be, and the same is hereby amended to read as follows:

63-105EE. PROPERTY EXEMPT FROM TAXATION -- CASUALTY LOSS. The following property is exempt from taxation: real and personal property which has been damaged by an event causing casualty loss to all or a portion of the property. The board of equalization on a case by case basis shall determine whether to grant an exemption.

An exemption granted under this section shall be for ~~all tax~~ the years in which the real or personal property ~~have~~ has been damaged or destroyed ~~and have not been replaced~~. Claimants seeking exemption under this section must apply to the county board of equalization. ~~in accordance with the procedure prescribed in section 63-107, Idaho Code~~ The application must be in writing on a form provided by the county and must identify the claimant, the date of the casualty loss, and the property that has been damaged or destroyed. The application must be filed on or before the end of the county's normal business hours on the fourth Monday of June of the year in which the casualty loss occurred. If an exemption is granted, the ~~taxes that shall be paid~~ value of the property subject to taxation shall be ~~upon those improvements for that portion of the calendar year in which they were in~~

~~existence--and-usable.-The-tax-imposed-shall-be-an-amount-equal-to-the proportion-of-ad-valorem-taxes-which-would-have-been-paid-on-the-property-had-it-been-on-the-assessment-rolls-January-1-prorated--for--that portion-of-the-calendar-year-for-which-the-structure-was-in-existence. For--real--or-personal-property-to-be-granted-an-exemption-pursuant-to this-section-it-shall-not-have-been-used-by-any-person-as-a-residence, it-shall-not-have-been-used-for-any--business--or--commercial--purpose unrelated--to--the--construction--of-the-property-or-it-shall-not-have been-used-for-any-possessory-use-for-which-the-owner-received-any-compensation-or-consideration~~ calculated by dividing the number of days in the year prior to the casualty loss by the number of days in the year and multiplying the resulting quotient by the market value of the property less any applicable exemptions, as of 12:01 a.m. on the first day of January of the tax year.

The county board of equalization ~~may-sit-and~~ shall decide whether to grant such claim for exemption ~~at--any-time-within-the-limits allowed-in-this-section,-and~~ on or before the second Monday of July of the year in which the claim is filed. ~~If~~ granted, either in whole or in part, the county board of equalization shall order all necessary adjustments made in the ~~tax-records-of-the-various-county-officers-and taxing-districts.-The-granting-of-an-exemption-for--taxes--which--have become--delinquent-shall-annul-and-cancel-only-those-taxes-exempted-by order-of-the-board-of--equalization,--and--all--interest--and--penalty charges-on-such-taxes~~ assessment rolls.

SECTION 2. That Section 63-3905, Idaho Code, be, and the same is hereby amended to read as follows:

63-3905. REPORTING. The owner of any newly constructed improvement, except additions to existing improvements, of real property upon which no occupancy tax has yet been paid shall, on or before the date of first occupancy, report to the county assessor of the county in which the property is located, or to such other county officer as may be designated by the board of county commissioners, the fact that the improvement has been occupied. As soon as practical after receiving such a report, the county assessor shall cause the improvement to be appraised and shall determine the market value of the improvement for the purpose of determining the amount of the occupancy tax. Upon the completion of the appraisal, the county assessor shall notify the owner of the appraisal, and shall further notify the owner of the right of the owner to apply for the exemptions provided in sections 63-105DD and 63-105EE, Idaho Code. If the owner applies for the exemption provided in section 63-105DD, Idaho Code, within thirty (30) days of the notification by the county assessor, in the manner provided in section 63-105DD, Idaho Code, and meets the requirements of section 63-105DD(2) (a) and (b), Idaho Code, the exemption shall be extended to the newly constructed and occupied residential structure as to any other residential structure, notwithstanding limitations imposed in section 63-105DD, Idaho Code, requiring occupancy as of January 1 of the tax year, and shall be used in determining the value of the newly constructed and occupied residential property for purposes of determining the amount of the occupancy tax.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1996.

Approved March 18, 1996.

CHAPTER 326
(H.B. No. 740)

AN ACT

RELATING TO OPTIONAL FORMS OF COUNTY GOVERNMENT; AMENDING SECTION 31-5306, IDAHO CODE, AS ADDED BY HOUSE BILL 448, ENACTED BY THE SECOND REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE, TO PROVIDE A CORRECT REFERENCE; AMENDING SECTIONS 31-5506, 31-5507, 31-5508, 31-5509, 31-5510, 31-5511, 31-5606, 31-5607, 31-5608, 31-5609, 31-5610 AND 31-5611, IDAHO CODE, AS ADDED BY HOUSE BILL 448, ENACTED BY THE SECOND REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE, TO PROVIDE THAT ONE OF THE OPTIONS FOR EACH COUNTY OFFICE IN THE FIVE-MEMBER BOARD OF COUNTY COMMISSIONERS FORM AND THE SEVEN-MEMBER BOARD OF COUNTY COMMISSIONERS FORM SHALL BE APPOINTMENT BY THE BOARD OF COUNTY COMMISSIONERS OR THE EXECUTIVE BOARD WITH THE CONSENT OF THE ENTIRE BOARD AND FOR SUPERVISION OF THE OFFICE BY THE ENTIRE BOARD OR THE EXECUTIVE BOARD AS APPLICABLE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 31-5306, Idaho Code, as added by House Bill 448, enacted by the Second Regular Session of the Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

31-5306. OTHER OFFICES. (1) The resolution or petition to adopt the commission ~~executive~~ manager form of government shall further define the structure of the form by including one (1) selection from the choices specified for each of the offices listed in sections 31-5307 through 31-5212, Idaho Code.

(2) If the resolution or petition provides for the election of any new officers, such officers shall be elected at the general election following the adoption of the optional form of county government provided for in this chapter.

SECTION 2. That Sections 31-5506, 31-5507, 31-5508, 31-5509, 31-5510, 31-5511, 31-5606, 31-5607, 31-5608, 31-5609, 31-5610 and 31-5611, Idaho Code, as added by House Bill 448, enacted by the Second Regular Session of the Fifty-third Idaho Legislature, be, and the same are hereby amended to read as follows:

31-5506. COUNTY CLERK, EX OFFICIO AUDITOR AND RECORDER. For purposes of this act the duties and responsibilities of the county clerk

shall be as provided in chapter 10, title 1, Idaho Code, and chapter 7, title 31, Idaho Code, or as otherwise prescribed by law; the duties of the county clerk as ex officio county auditor shall be as provided in chapter 23, title 31, Idaho Code, or as otherwise prescribed by law; and the duties of the county clerk as ex officio county recorder shall be as provided in chapter 24, title 31, Idaho Code, or as otherwise prescribed by law. A county clerk, ex officio auditor and recorder:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office specified in the petition or resolution, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners or the executive board with the advice and consent of the entire board of county commissioners, be supervised by the entire board or the executive board, as applicable, and perform all the duties and responsibilities of the office; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this section. The petition or resolution shall identify the name, duties and responsibilities of each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall identify the duties of the office for which each other officer or appointee shall be responsible. The duties of the office as provided in chapter 10, title 1, Idaho Code, may not be consolidated with the office of the sheriff or prosecuting attorney.

31-5507. COUNTY TREASURER, EX OFFICIO TAX COLLECTOR AND PUBLIC ADMINISTRATOR. For purposes of this act, the duties of the county treasurer as ex officio public administrator shall be as provided in chapter 1, title 14, Idaho Code; and the duties of the county treasurer as county treasurer and ex officio tax collector shall be as provided in chapters 15 and 21, title 31, Idaho Code, and title 63, Idaho Code, and as otherwise prescribed by law. A county treasurer, ex officio tax collector and public administrator:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office to be specified in the petition or resolution, but not to exceed four (4) years, and perform all the duties and responsibilities of the office; or

(3) Shall be appointed by the board of county commissioners or the executive board with the advice and consent of the entire board of county commissioners, be supervised by the entire board or the executive board, as applicable, and perform all the duties of the office; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this

section. The petition or resolution shall identify the name, duties and responsibilities of each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall specifically identify those duties of the office for which each other officer or appointee shall be responsible.

31-5508. COUNTY ASSESSOR. For purposes of this act, the duties of the county assessor shall be as provided in title 63, Idaho Code, and as otherwise prescribed by law. A county assessor:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners or the executive board with the advice and consent of the entire board of county commissioners, be supervised by the entire board or the executive board, as applicable, and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall identify those duties of the office for which each other officer or appointee shall be responsible.

31-5509. COUNTY SHERIFF. For purposes of this act, the duties of the county sheriff shall be as provided in chapter 22, title 31, Idaho Code, and as otherwise prescribed by law. A county sheriff:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners or the executive board with the advice and consent of the entire board of county commissioners, be supervised by the entire board or the executive board, as applicable, and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers or appointed persons as provided in the resolution or petition. The office of sheriff may not be consolidated with the office of the prosecuting attorney or the office of the clerk of the district court. The resolution or petition shall identify those duties of the county sheriff for which each other officer or appointee shall be responsible.

31-5510. COUNTY CORONER. For purposes of this act the duties of the county coroner shall be as provided in chapter 28, title 31, Idaho

Code, and as otherwise prescribed by law. A county coroner:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners or the executive board with the advice and consent of the entire board of county commissioners, be supervised by the entire board or the executive board, as applicable, and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall identify those duties of the office for which each other officer or appointee shall be responsible.

31-5511. COUNTY PROSECUTING ATTORNEY. For purposes of this act, the duties of the county prosecuting attorney shall be as provided in chapter 26, title 31, Idaho Code, and as otherwise prescribed by law. A county prosecuting attorney:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners or the executive board with the advice and consent of the entire board of county commissioners, be supervised by the entire board or the executive board, as applicable, and perform all the duties of the office; or

(4) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers, appointed persons or persons retained on a contractual basis as provided in the resolution or petition. The office of prosecuting attorney may not be consolidated with the office of sheriff or the office of clerk of the district court. The resolution or petition shall identify those duties of the office for which each other officer, appointee or party to the contract shall be responsible.

31-5606. COUNTY CLERK, EX OFFICIO AUDITOR AND RECORDER. For purposes of this act the duties and responsibilities of the county clerk shall be as provided in chapter 10, title 1, Idaho Code, and chapter 7, title 31, Idaho Code, or as otherwise prescribed by law; the duties of the county clerk as ex officio county auditor shall be as provided in chapter 23, title 31, Idaho Code, or as otherwise prescribed by law; and the duties of the county clerk as ex officio county recorder shall be as provided in chapter 24, title 31, Idaho Code, or as otherwise prescribed by law. A county clerk, ex officio auditor and recorder:

(1) Shall continue to be elected to a term of four (4) years and

to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office specified in the petition or resolution, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners or the executive board with the advice and consent of the entire board of county commissioners, be supervised by the entire board or the executive board, as applicable, and perform all the duties and responsibilities of the office; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this section. The petition or resolution shall identify the name, duties and responsibilities of each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall identify the duties of the office for which each other officer or appointee shall be responsible. The duties of the office as provided in chapter 10, title 1, Idaho Code, may not be consolidated with the office of the sheriff or prosecuting attorney.

31-5607. COUNTY TREASURER, EX OFFICIO TAX COLLECTOR AND PUBLIC ADMINISTRATOR. For purposes of this act, the duties of the county treasurer as ex officio public administrator shall be as provided in chapter 1, title 14, Idaho Code; and the duties of the county treasurer as county treasurer and ex officio tax collector shall be as provided in chapters 15 and 21, title 31, Idaho Code, and title 63, Idaho Code, and as otherwise prescribed by law. A county treasurer, ex officio tax collector and public administrator:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office to be specified in the petition or resolution, but not to exceed four (4) years, and perform all the duties and responsibilities of the office; or

(3) Shall be appointed by the board of county commissioners or the executive board with the advice and consent of the entire board of county commissioners, be supervised by the entire board or the executive board, as applicable, and perform all the duties of the office; or

(4) The office shall be divided into two (2) or three (3) separate offices, with the persons to fill those offices to be elected or appointed in the manner provided in subsection (1), (2) or (3) of this section. The petition or resolution shall identify the name, duties and responsibilities of each office; or

(5) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the petition or resolution. The petition or resolution shall specifically identify those duties of the office for which each other officer or appointee shall be responsible.

31-5608. COUNTY ASSESSOR. For purposes of this act, the duties of the county assessor shall be as provided in title 63, Idaho Code, and as otherwise prescribed by law. A county assessor:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners or the executive board with the advice and consent of the entire board of county commissioners, be supervised by the entire board or the executive board, as applicable, and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall identify those duties of the office for which each other officer or appointee shall be responsible.

31-5609. COUNTY SHERIFF. For purposes of this act, the duties of the county sheriff shall be as provided in chapter 22, title 31, Idaho Code, and as otherwise prescribed by law. A county sheriff:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners or the executive board with the advice and consent of the entire board of county commissioners, be supervised by the entire board or the executive board, as applicable, and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers or appointed persons as provided in the resolution or petition. The office of sheriff may not be consolidated with the office of the prosecuting attorney or the office of the clerk of the district court. The resolution or petition shall identify those duties of the county sheriff for which each other officer or appointee shall be responsible.

31-5610. COUNTY CORONER. For purposes of this act the duties of the county coroner shall be as provided in chapter 28, title 31, Idaho Code, and as otherwise prescribed by law. A county coroner:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a different term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners or the executive board with the advice and consent of the entire board of county commissioners, be supervised by the entire board or the execu-

tive board, as applicable, and perform all the duties of the office; or

(4) The office shall be eliminated with the duties and responsibilities of the office to be performed by one (1) or more other elected officers or appointed persons as provided in the resolution or petition. The resolution or petition shall identify those duties of the office for which each other officer or appointee shall be responsible.

31-5611. COUNTY PROSECUTING ATTORNEY. For purposes of this act, the duties of the county prosecuting attorney shall be as provided in chapter 26, title 31, Idaho Code, and as otherwise prescribed by law. A county prosecuting attorney:

(1) Shall continue to be elected to a term of four (4) years and to perform all the duties and responsibilities of the office; or

(2) Shall be elected to a term of office as provided in the resolution or petition, but not to exceed four (4) years, and perform all the duties of the office; or

(3) Shall be appointed by the board of county commissioners or the executive board with the advice and consent of the entire board of county commissioners, be supervised by the entire board or the executive board, as applicable, and perform all the duties of the office; or

(4) The office shall be eliminated as a separate office with the duties and responsibilities of the office to be performed by one (1) or more other qualified elected officers, appointed persons or persons retained on a contractual basis as provided in the resolution or petition. The office of prosecuting attorney may not be consolidated with the office of sheriff or the office of clerk of the district court. The resolution or petition shall identify those duties of the office for which each other officer, appointee or party to the contract shall be responsible.

SECTION 3. This act shall be effective upon the passage and approval of House Bill 448 in the Second Regular Session of the Fifty-third Idaho Legislature.

Approved March 18, 1996.

CHAPTER 327
(H.B. No. 734)

AN ACT

RELATING TO SALVAGE VEHICLES; AMENDING SECTION 49-110, IDAHO CODE, TO DEFINE THE TERM INSURER AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 49-524, IDAHO CODE, TO PROVIDE MISDEMEANOR PENALTIES IF THE OWNER OF A RETAINED SALVAGE VEHICLE FAILS TO SURRENDER THE TITLE AND BE ISSUED A SALVAGE CERTIFICATE, OR TO SELL THE VEHICLE AND NOT TELL THE BUYER THAT THE VEHICLE IS TOTALED.

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

SECTION 1. That Section 49-110, Idaho Code, be, and the same is hereby amended to read as follows:

49-110. DEFINITIONS -- I.

(1) "Identifying number" means:

(a) Motor number. That identifying number stamped on the engine of a vehicle.

(b) Vehicle identification number. The numbers and letters, if any, placed on a vehicle by the manufacturer for the purpose of identifying the vehicle.

(2) "Implements of husbandry" means every vehicle including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations when being incidentally operated. Such implements include, but are not limited to, combines, discs, dry and liquid fertilizer spreaders, cargo tanks, harrows, hay balers, harvesting and stacking equipment, pesticide applicators, plows, swathers, mint tubs and mint wagons, and farm wagons. A farm tractor when attached to or drawing any implement of husbandry shall be construed to be an implement of husbandry. "Implements of husbandry" do not include semitrailers, nor do they include motor vehicles or trailers, unless their design limits their use to agricultural, horticultural, dairy or livestock growing and feeding operations.

(3) "Incidentally operated" means the transport of the implement of husbandry from one (1) farm operation to another.

(4) "Infraction" means a civil public offense, not constituting a crime, which is not punishable by incarceration and for which there is no right to a trial by jury or right to court-appointed counsel, and which is punishable by only a penalty not exceeding one hundred dollars ($100) and no imprisonment.

(5) "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for such a school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of, persons learning to operate or drive motor vehicles.

(6) "Insurer" means any insurer, public or private, which shall include, but not be limited to, insurance companies domiciled in the state of Idaho, agents, adjuster or any other person acting on behalf of any insurance not domiciled in the state of Idaho and any self-insured entity operating under Idaho insurance laws or rules.

(7) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway shall be regarded as a separate intersection. In the event an intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of the highways shall be regarded as a

separate intersection.

(c) The junction of an alley with a street or highway shall not constitute an intersection.

SECTION 2. That Section 49-524, Idaho Code, be, and the same is hereby amended to read as follows:

49-524. SALVAGE CERTIFICATE OF OWNERSHIP TO REPLACE CERTIFICATE OF TITLE OR ORIGIN ON CERTAIN VEHICLES. (1) Every person acquiring a vehicle which is five (5) years old or less or which has a known market value in excess of six thousand dollars ($6,000) which has been determined to be a salvage vehicle, shall obtain a salvage certificate of ownership on that vehicle.

(2) The salvage certificate shall replace the certificate of origin, certificate of title or other comparable ownership document and shall indicate ownership only; it shall not be valid for registration purposes.

(3) A salvage certificate of ownership shall be issued by the department, the insurer, or a salvage pool, and shall be on a form prescribed by the department. The form shall provide for assignments of the salvage certificate.

(4) The fee for a salvage certificate shall be the same as for issuance of any regular Idaho certificate of title. The fee shall be deposited in the state highway account.

(5) Every insurer making payment for a vehicle which is five (5) years old or less or which has a known market value in excess of six thousand dollars ($6,000) which has been determined to be a salvage vehicle, shall within thirty (30) days from receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(6) If a salvage pool receives a certificate of title for a vehicle which is five (5) years old or less or which has a known market value in excess of six thousand dollars ($6,000) which has been determined to be a salvage vehicle, he shall within thirty (30) days and upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(7) It is a misdemeanor, punishable by up to six (6) months in jail, a fine of one thousand dollars ($1,000) or both, if the owner of a retained salvage vehicle fails to surrender the title and be issued a salvage certificate, or to sell the vehicle and not tell the buyer that the vehicle is totaled.

(8) If an insurer has allowed the owner to retain ownership of the salvage vehicle, the owner must surrender the certificate of title for such vehicle to the department or the insurance company not later than fifteen (15) days from the date that the claim was satisfied. The insurer must notify the department of a total loss payoff. The insurer

or department shall issue a salvage certificate to the owner prior to any sale or disposition of the salvage vehicle.

(~~8~~9) If an insurer acquires the certificate of title of a vehicle in a settlement of a theft claim, the insurer shall immediately, upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate in the name of the insurer and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing.

(~~9~~10) If an insurer has acquired a vehicle in a settlement of a theft claim, has made application to and has been issued a new salvage certificate in the name of the insurer and the vehicle is subsequently recovered and is not a salvage vehicle, the insurer may complete an affidavit indemnifying the department stating the facts of acquisition and disposition of the vehicle in a form prescribed by the department and deliver the salvage certificate of ownership, affidavit and any other documents required by the department to the transferee at the time of delivery of the vehicle.

(~~10~~11) Any person acquiring ownership of a salvage vehicle purchased in a state or jurisdiction which does not require surrender of the certificate of title or comparable ownership document shall, within thirty (30) days following delivery of the certificate of title or ownership document, surrender such title or document to the department and apply for a salvage certificate.

(~~11~~12) An owner of a salvage vehicle who sells or transfers said vehicle shall provide a properly executed assignment of the salvage certificate of ownership to the transferee.

(~~12~~13) A purchaser of a salvage vehicle shall not possess or retain a salvage vehicle without a salvage certificate unless the salvage vehicle is six (6) years old or older with a fair market value of six thousand dollars ($6,000) or less. The salvage vehicle purchaser shall display the salvage certificate upon the request of any peace officer or agent of the department.

Approved March 18, 1996.

CHAPTER 328
(H.B. No. 700, As Amended)

AN ACT

RELATING TO PROPERTY EXEMPT FROM TAXATION; AMENDING CHAPTER 1, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-105HH, IDAHO CODE, TO EXEMPT FROM TAXATION QUALIFIED EQUIPMENT USED IN CONNECTION WITH THE MANUFACTURE OF PRODUCTS COMPOSED OF POSTCONSUMER WASTE OR POSTINDUSTRIAL WASTE; AMENDING SECTION 63-412, IDAHO CODE, TO PROVIDE A CITATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 1, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 63-105HH, Idaho Code, and to read as follows:

63-105HH. PROPERTY EXEMPT FROM TAXATION -- QUALIFIED EQUIPMENT UTILIZING POSTCONSUMER WASTE OR POSTINDUSTRIAL WASTE. (1) The following property is exempt from taxation: qualified equipment utilizing postconsumer waste or postindustrial waste used to manufacture products. This exemption shall be granted only if the list of all taxable personal property as described in section 63-203, Idaho Code, is submitted by the property owner or the agent thereof to the assessor not later than March 15 of each year. Additionally, the requirements of subsection (3) of this section shall be met.

(2) As used in this section:

(a) "Postconsumer waste" or "postindustrial waste" means only those products and materials consisting of metals, paper, glass or plastic generated by businesses or consumers which have served their intended end use or usefulness and either have been or would normally be disposed of as solid waste except for the fact that they are separated from solid waste for purposes of collection, recycling or reuse. "Postconsumer waste" or "postindustrial waste" shall not include radioactive waste, as defined in subsection (4)(g) of section 63-3029D, Idaho Code, or hazardous waste, as defined in chapter 44, title 39, Idaho Code.

(b) "Product" means any material resulting from a manufacturing process and offered for sale to the private or public sector which is composed of at least fifty percent (50%) postconsumer waste or postindustrial waste. "Product" does not include any shredded material unless such shredded material is incorporated directly into the manufacturing process.

(c) "Qualified equipment" means machinery or equipment located within Idaho which has at least an estimated three (3) years useful life and at least ninety percent (90%) of the total actual production from the equipment during the previous calendar year utilized postconsumer waste or postindustrial waste. "Qualified equipment" shall not include any machinery or equipment which is used for the collection, as defined herein, of postconsumer waste or postindustrial waste. As used in this section "collection" means:

(i) The acquisition of materials from businesses or the general public through purchase or donation, including the organization of systems for such acquisitions;

(ii) The preparation of materials for over-the-road transportation through cleaning, densification by shredding, baling, or any other method, or coalescence, including the organization of systems for such preparation; or

(iii) The transportation of postconsumer waste or postindustrial waste between separate geographical locations, including the movement of materials around the manufacturing site.

(3) On the list of taxable personal property required by subsection (1) of this section, the property owner, or agent thereof, shall identify all qualified equipment, and all machinery and equipment that does not meet the definitions of qualified equipment.

The property owner, or agent thereof, shall also report use of all qualified equipment, on forms prescribed by the state tax commission.

(4) The county assessor may request additional information of the company to verify the basis of the exemption claimed in this section.

(5) The legislature declares that this exemption is necessary and just.

SECTION 2. That Section 63-412, Idaho Code, be, and the same is hereby amended to read as follows:

63-412. DELIVERY OF ROLL TO COUNTY AUDITOR -- ABSTRACT OF ROLL. On the second Monday of July the board of county commissioners must deliver the real and personal property assessment rolls, with all changes, corrections and additions entered therein, to the county auditor, who must add up the amount and value of each kind and class of property, and of all property, and prepare an abstract of all the property entered upon the said rolls, showing the full market value thereof, in each class, the number of acres, and the full market value of each class of land, the full market value of each class of improvements on land, the full market value of each kind of the different classes of personal property, and the full market value of each class of other property as shown on the assessment rolls as determined by the board of county commissioners. The value of exemptions will be shown and identified for exemptions granted pursuant to chapters 20 and 29, title 50, Idaho Code, for revenue allocation purposes, and sections 63-105T, 63-105BB, 63-105CC, ~~and~~ 63-105DD and 63-105HH, Idaho Code, as well as the net taxable value for each of the categories. The said abstracts shall be prepared in duplicate and duly verified upon blanks supplied by the state tax commission and must show a correct classification of all the property in accordance with the classification of such property upon the assessment rolls, and all matters and things required to be shown upon the abstracts must be entered in the proper spaces and columns provided for that purpose in the blanks.

SECTION 3. This act shall be in full force and effect on and after January 1, 1997.

Approved March 18, 1996.

CHAPTER 329
(H.B. No. 674)

AN ACT

RELATING TO WAREHOUSE AND RECORD REQUIREMENTS FOR THE DISTRIBUTION OF BEER OR WINE; AMENDING SECTION 23-1028, IDAHO CODE, TO REQUIRE THAT A BEER WHOLESALER'S WAREHOUSE MUST BE LOCATED WITHIN THE STATE OF IDAHO AND TO REQUIRE THAT DISTRIBUTION OF BEER BY THE WHOLESALER CAN ONLY BE MADE FROM STOCKS OF BEER WHICH HAVE BEEN UNLOADED, STORED AND MAINTAINED AT SUCH WAREHOUSE, TO PROVIDE APPLICATION TO CERTAIN LICENSED WHOLESALERS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 23-1309, IDAHO CODE, TO REQUIRE THAT A WINE DISTRIBUTOR'S WAREHOUSE MUST BE LOCATED WITHIN THE

STATE OF IDAHO AND TO REQUIRE THAT THE DISTRIBUTION OF WINE CAN ONLY BE MADE FROM STOCKS OF WINE WHICH HAVE BEEN UNLOADED, STORED AND MAINTAINED AT SUCH WAREHOUSE, TO PROVIDE APPLICATION TO CERTAIN LICENSED DISTRIBUTORS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 23-1028, Idaho Code, be, and the same is hereby amended to read as follows:

23-1028. WAREHOUSE AND RECORDS OF WHOLESALERS AND DEALERS. Each licensed wholesaler and dealer shall sell and distribute beer in this state only from stocks of beer which have been unloaded, stored and maintained in a warehouse or warehouses owned or used by such wholesaler or dealer within the state of Idaho in the conduct of his business as such. All records which a wholesaler or dealer is by law or ~~regulation~~ rule required to maintain, shall be kept at his warehouse within the state of Idaho, or, if such wholesaler or dealer shall have more than one (1) warehouse, then in the warehouse of such wholesaler or dealer which he shall designate as his principal warehouse within the state. Nothing in this section shall be deemed to affect the existing rights of any person who, on and prior to January 1, 1996, was licensed as a wholesaler by the state of Idaho.

SECTION 2. That Section 23-1309, Idaho Code, be, and the same is hereby amended to read as follows:

23-1309. RESTRICTIONS ON IMPORTATION AND DISTRIBUTION. No importer shall import wine into the state of Idaho for resale within the state to a destination other than the ~~premises~~ warehouse of a distributor within the state of Idaho. No distributor shall sell or distribute wine in this state except from stocks of wine which have been unloaded, stored and maintained in a warehouse or warehouses located within the state of Idaho and owned or used by such distributor in the conduct of his business as such. All records which a distributor is by law or ~~regulation~~ rule required to maintain, shall be kept at his warehouse, or if such distributor shall have more than one (1) warehouse, then in the warehouse of such distributor which he shall designate as his principal warehouse within the state. Nothing in this section shall be deemed to affect the existing rights of any person who, on and prior to January 1, 1996, was licensed as a distributor by the state of Idaho.

Approved March 18, 1996.

CHAPTER 330
(H.B. No. 666, As Amended)

AN ACT

RELATING TO TRADE PRACTICES; AMENDING TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 13, IDAHO CODE, PROVIDING A SHORT TITLE, PROVIDING DEFINITIONS, PROVIDING FOR NOTICE AND SCHEDULES, PROVID-

ING ROYALTY CONTRACT REQUIREMENTS, PROVIDING PROHIBITED CONDUCT, PROVIDING REMEDIES, PROVIDING THAT REMEDIES ARE CUMULATIVE AND PROVIDING EXCEPTIONS.

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

SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 13, Title 48, Idaho Code, and to read as follows:

CHAPTER 13
MUSIC LICENSING AND COPYRIGHT ENFORCEMENT ACT

48-1301. SHORT TITLE. This act shall be known and may be cited as the "Music Licensing and Copyright Enforcement Act of 1996."

48-1302. DEFINITIONS. As used in this chapter:

(1) "Copyright owner" means the owner of a copyright of a nondramatic musical or similar work recognized and enforceable under the copyright laws of the United States pursuant to title 17 of the United States Code, P.L. 94-553 (17 U.S.C. sec. 101 et seq.).

(2) "Nondramatic" means the public performance of a recorded, broadcast, or live musical work; except that "nondramatic" shall not mean the performance of a dramatic work including a play.

(3) "Performing rights society" means an association or corporation that licenses the public performances of nondramatic musical works on behalf of copyright owners, such as the American society of composers, authors and publishers (ASCAP), broadcast music, inc. (BMI), and SESAC, Inc.

(4) "Proprietor" means the owner of a retail establishment, restaurant, inn, bar, tavern, sports or entertainment facility or any other similar place of business or professional office located in the state in which the public may assemble and in which nondramatic musical works or similar copyrighted works may be performed, broadcast or otherwise transmitted for the enjoyment of members of the public there assembled.

(5) "Royalty" or "royalties" means the fees payable to a copyright owner or performing rights society for the public performance of nondramatic musical or other similar works.

48-1303. NOTICE AND INFORMATION TO BE PROVIDED. No performing rights society shall enter into, or offer to enter into, a contract for the payment of royalties by a proprietor unless it agrees to provide to the proprietor upon request at the proprietor's place of business, by electronic means or otherwise:

(1) Information as to whether specific copyrighted musical works are in its repertoire; and

(2) The opportunity to review the most current available list of the performing rights society's members or affiliates.

48-1304. ROYALTY CONTRACT REQUIREMENTS. Every contract for the payment of royalties between a proprietor and a performing rights society executed, issued or renewed in the state on or after July 1,

1996 shall be:

(1) In writing;

(2) Signed by the parties;

(3) Written to include, at a minimum, the following information:

(a) The proprietor's name and business address and the name and location of each place of business to which the contract applies;

(b) The name of the performing rights society;

(c) The duration of the contract; and

(d) The schedule of rates and terms of the royalties to be collected under the contract, including any sliding scale or schedule for any increase or decrease of the rates for the duration of the contract.

48-1305. PROHIBITED CONDUCT. No performing rights society or any agent or employee thereof shall:

(1) Enter onto the premises of a proprietor's business for the purpose of discussing or inquiring about a contract for the payment of royalties with the proprietor or his employees, without first identifying himself to the proprietor or his employees and making known to them the purpose of the discussion or inquiry;

(2) Engage in any coercive conduct, act or practice that is substantially disruptive to a proprietor's business;

(3) Use or attempt to use any unfair or deceptive act or practice in negotiating with a proprietor; or

(4) Fail to comply with or fulfill the obligations imposed by sections 48-1303 and 48-1304, Idaho Code. However, nothing in this chapter shall be construed to prohibit a performing rights society from conducting investigations to determine the existence of music use by a proprietor or informing a proprietor of the proprietor's obligation under the copyright laws of the United States pursuant to title 17 of the United States Code, P.L. 94-553 (17 U.S.C. sec. 101 et seq.).

48-1306. REMEDIES -- INJUNCTION. Any person who suffers a violation of this chapter may bring an action to recover actual damages and reasonable attorney's fees and seek an injunction or any other remedy available at law or in equity.

48-1307. REMEDIES CUMULATIVE. The rights, remedies and prohibitions contained in this chapter shall be in addition to and cumulative to any other right, remedy or prohibition accorded by common law, federal law or the statutes of the state, and nothing contained in this chapter shall be construed to deny, abrogate or impair any common law or statutory right, remedy or prohibition.

48-1308. EXCEPTIONS. This chapter shall not apply to contracts between copyright owners or performing rights societies and broadcasters licensed by the federal communications commission, or to contracts with cable operators, programmers or other transmission services. Nor shall this chapter apply to musical works performed in synchronization with an audio/visual film or tape.

Approved March 18, 1996.

CHAPTER 331
(H.B. No. 658)

AN ACT

RELATING TO RECOGNITION OF FOREIGN OR OUT-OF-STATE MARRIAGES; AMENDING SECTION 32-209, IDAHO CODE, TO PROVIDE THAT MARRIAGES CONTRACTED WITHOUT THE STATE, WHICH WOULD BE VALID BY THE LAWS OF THE STATE OR COUNTRY IN WHICH THE MARRIAGE WAS CONTRACTED ARE VALID IN THIS STATE UNLESS THE MARRIAGE VIOLATES THE PUBLIC POLICY OF THIS STATE AND TO PROVIDE WHAT MARRIAGES VIOLATE THE PUBLIC POLICY OF THIS STATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 32-209, Idaho Code, be, and the same is hereby amended to read as follows:

32-209. RECOGNITION OF FOREIGN <u>OR OUT-OF-STATE</u> MARRIAGES. All marriages contracted without this state, which would be valid by the laws of the <u>state or</u> country in which the same were contracted, are valid in this <u>state, unless they violate the public policy of this state. Marriages that violate the public policy of this state include, but are not limited to, same-sex marriages, and marriages entered into under the laws of another state or country with the intent to evade the prohibitions of the marriage laws of this state.</u>

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

Approved March 18, 1996.

CHAPTER 332
(H.B. No. 655)

AN ACT

RELATING TO LICENSE FEES FOR PUBLIC WORKS CONTRACTORS; AMENDING SECTION 54-1904, IDAHO CODE, TO PROVIDE AN INCREASE IN FEES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1904, Idaho Code, be, and the same is hereby amended to read as follows:

54-1904. CLASSES OF LICENSES -- RIGHTS GRANTED UNDER LICENSES -- FEES. There shall be six (6) classes of licenses issued under the provisions of this act which are hereby designated as Classes AAA, AA, A, B, C and D, the maximum fees for which shall be as hereinafter specified and in lieu of all other license taxes. Each applicant for a

license hereunder shall specify the class of license applied for in his application.

For the purpose of licensing public works contractors under this act the board may adopt rules ~~and regulations~~ necessary to determine the classification according to their responsibility, and the type and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage as in this act provided.

Class "AAA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of more than one million dollars ($1,000,000) may, upon his application and the payment of a license fee of not to exceed one hundred fifty dollars ($1~~2~~50), be granted a Class "AAA" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "AAA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AAA" license shall not exceed one hundred fifty dollars ($1~~2~~50).

Class "AA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than one million dollars ($1,000,000) may, upon his application and the payment of a license fee of not to exceed one hundred fifty dollars ($1~~00~~50), be granted a Class "AA" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "AA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AA" license shall not exceed one hundred fifty dollars ($1~~00~~50).

Class "A" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than six hundred thousand dollars ($600,000) may, upon his application and the payment of a license fee of not to exceed one hundred fifty dollars ($~~90.00~~150), be granted a Class "A" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "A" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "A" license shall not exceed one hundred fifty dollars ($~~90.00~~150).

Class "B" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than two hundred fifty thousand dollars ($250,000), may, upon his application and the payment of a license fee of not to exceed seventy-five dollars ($75.00) be granted a Class "B" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "B" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "B" license shall not exceed seventy-five dollars ($75.00).

Class "C" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than one hundred thousand dollars ($100,000), may, upon his application and the payment of a license fee of not to exceed seventy-five dollars ($75~~0~~.00), be granted a Class "C" license and be so classified by the board in accordance with the

provisions of this act. The holder of a Class "C" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "C" license shall not exceed seventy-five dollars ($75~~0~~.00).

Class "D" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than fifty thousand dollars ($50,000), may, upon his application and the payment of a license fee of not to exceed seventy-five dollars ($~~2~~75.00), be granted a Class "D" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "D" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "D" license shall not exceed seventy-five dollars ($~~2~~75.00).

The board shall be vested with the power to fix annually the amount of the original and renewal license fees for each class of license for the ensuing license year. The amount of the license fee~~s~~ so fixed shall not exceed the maximum fee~~s~~ set forth in this section.

Each license issued by the board shall clearly indicate the type and scope of work for which the licensee is qualified and licensed and the holder of the license shall be permitted to submit proposals for and perform only those types of work specified in each such license; provided, however, that the board may extend the permissible type or scope of work to be done under any license when it is determined by the board that the applicant meets all of the requirements of this act to qualify him to do such other work.

Approved March 18, 1996.

CHAPTER 333
(H.B. No. 625, As Amended)

AN ACT

RELATING TO CHANGES IN POINT OF DIVERSION AND USE OF WATER; AMENDING SECTION 42-222, IDAHO CODE, TO ENCOURAGE THE CONSERVATION OF WATER RESOURCES BY MODIFYING THE FORFEITURE PROVISION SO IT DOES NOT APPLY WHEN DAIRY OR OTHER WASTE IS USED IN COMBINATION WITH OR SUBSTITUTED FOR OTHER WATER SOURCES DIVERTED UNDER EXISTING WATER RIGHTS.

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

SECTION 1. That Section 42-222, Idaho Code, be, and the same is hereby amended to read as follows:

42-222. CHANGE IN POINT OF DIVERSION, PLACE OF USE, PERIOD OF USE, OR NATURE OF USE OF WATER UNDER ESTABLISHED RIGHTS -- FORFEITURE AND EXTENSION -- APPEALS. (1) Any person, entitled to the use of water whether represented by license issued by the department of water resources, by claims to water rights by reason of diversion and application to a beneficial use as filed under the provisions of this chap-

ter, or by decree of the court, who shall desire to change the point of diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of such change. Such application shall be upon forms furnished by the department and shall describe the right licensed, claimed or decreed which is to be changed and the changes which are proposed, and shall be accompanied by the statutory filing fee as in this chapter provided. Upon receipt of such application it shall be the duty of the director of the department of water resources to examine same, obtain any consent required in section 42-108, Idaho Code, and if otherwise proper to provide notice of the proposed change in the same manner as applications under section 42-203A, Idaho Code. Such notice shall advise that anyone who desires to protest the proposed change shall file notice of protests with the department within ten (10) days of the last date of publication. Upon the receipt of any protest, accompanied by the statutory filing fee as provided in section 42-221, Idaho Code, it shall be the duty of the director of the department of water resources to investigate the same and to conduct a hearing thereon. He shall also advise the watermaster of the district in which such water is used of the proposed change and the watermaster shall notify the director of the department of water resources of his recommendation on the application, and the director of the department of water resources shall not finally determine the action on the application for change until he has received from such watermaster his recommendation thereof, which action of the watermaster shall be received and considered as other evidence.

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code; except the director shall not approve a change in the nature of use from agricultural use where such change would significantly affect the agricultural base of the local area. The transfer of the right to the use of stored water for irrigation purposes shall not constitute an enlargement in use of the original right even though more acres may be irrigated, if no other water rights are injured thereby. A copy of the approved application for change shall be returned to the applicant and he shall be authorized upon receipt thereof to make the change and the original water right shall be presumed to have been amended by reason of such authorized change. In the event the director of the department of water resources determines that a proposed change shall not be approved as provided in this section, he shall deny the same and forward notice of such action to the applicant by certified mail, which decision shall be subject to judicial review as hereafter provided.

(2) All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to

the state and be again subject to appropriation under this chapter; except that all water rights appurtenant to land contracted in a federal cropland set-aside program, shall not be lost and forfeited for nonuse during the contracted period. The five (5) year period of nonuse for forfeiture of a water right shall begin to accrue upon termination of the contract if a period of nonuse did not occur prior to the effective date of the contract or shall continue to accrue if a period of nonuse occurred prior to the effective date of the contract. A water right shall not be forfeited by a failure to divert and apply the water to beneficial use if the water is not needed to maintain full beneficial use under the right because of land application of waste for disposal purposes including, but not limited to discharge from dairy lagoons, used in combination with or substituted for water diverted under the water right. Upon proper showing before the director of the department of water resources of good and sufficient reason for nonapplication to beneficial use of such water for such term of five (5) years, the director of the department of water resources is hereby authorized to grant an extension of time extending the time for forfeiture of title for nonuse thereof, to such waters for a period of not to exceed five (5) additional years. Application for an extension shall be made before the end of the five (5) year period upon forms to be furnished by the department of water resources and shall fully describe the right on which an extension of time to resume the use is requested and the reasons for such nonuse and shall be accompanied by the statutory filing fee; provided that water rights appurtenant to land contracted in a federal cropland set-aside program, or covered by the waste provision of this section, are exempt from this requirement. Upon the receipt of such application it shall be the duty of the director of the department of water resources to examine the same and to provide notice of the application for an extension in the same manner as applications under section 42-203A, Idaho Code. The notice shall fully describe the right, the extension which is requested and the reason for such nonuse and shall state that any person desiring to object to the requested extension may submit a protest, accompanied by the statutory filing fee as provided in section 42-221, Idaho Code, to the director of the department of water resources within ten (10) days of the last date of publication. Upon receipt of a protest it shall be the duty of the director of the department of water resources to investigate and conduct a hearing thereon as in this chapter provided. The director of the department of water resources shall find from the evidence presented in any hearing, or from information available to the department, the reasons for such nonuse of water and where it appears to the satisfaction of the director of the department of water resources that other rights will not be impaired by granting an extension of time within which to resume the use of the water and good cause appearing for such nonuse, he may grant one (1) extension of five (5) years within which to resume such use. In his approval of the application for an extension of time under this section the director of the department of water resources shall set the date when the use of water is to be resumed. Sixty (60) days before such date the director of the department of water resources shall forward to the applicant at his address of record a notice by certified mail setting forth the date on which the use of water is to be resumed and a form for

reporting the resumption of the use of the water right. If the use of the water has not been resumed and report thereon made on or before the date set for resumption of use such right shall revert to the state and again be subject to appropriation, as provided in this section. In the event the director of the department of water resources determines that a proposed extension of time within which to resume use of a water right shall not be approved as provided in this section, he shall deny same and forward notice of such action to the applicant by certified mail, which decision shall be subject to judicial review as hereafter provided.

(3) Any person or persons feeling themselves aggrieved by the determination of the department of water resources in approving or rejecting an application to change the point of diversion, place, period of use or nature of use of water under an established right or an application for an extension of time within which to resume the use of water as provided in this section, may, if a protest was filed and a hearing held thereon, seek judicial review pursuant to section 42-1701A(4), Idaho Code. If no protest was filed and no hearing held, the applicant may request a hearing pursuant to section 42-1701A(3), Idaho Code, for the purpose of contesting the action of the director and may seek judicial review of the final order of the director following the hearing pursuant to section 42-1701A(4), Idaho Code.

Approved March 18, 1996.

CHAPTER 334
(H.B. No. 644, As Amended)

AN ACT

RELATING TO THE MANUFACTURED HOME ADVISORY BOARD; AMENDING SECTION 44-2104, IDAHO CODE, TO REVISE DUTIES OF THE BOARD, TO PROVIDE THAT A MEMBER OF THE BOARD SHALL BE A CONSUMER AND TO PROVIDE TRANSITION OF THE BOARD; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 44-2104, Idaho Code, be, and the same is hereby amended to read as follows:

44-2104. MANUFACTURED HOME ADVISORY BOARD. (1) A manufactured home advisory board is established in the department ~~as a complaint and appeals board and~~ to advise the director in the administration and enforcement of the provisions of this chapter. The board shall consist of five (5) members, appointed by the governor, four (4) of whom shall be from licensed manufactured home dealers and one (1) of whom shall be a consumer who lives in a manufactured home. The board shall serve the following terms commencing January 1, 1989: two (2) members shall be appointed for a term of one (1) year, two (2) members shall be appointed for a term of two (2) years, and one (1) member shall be appointed for a term of three (3) years. The consumer member shall be a member appointed to a term beginning on January 1, 1996, or as soon

thereafter as there is a vacancy on the board. Thereafter board members shall be appointed for a term of three (3) years. Not more than three (3) members shall at any time belong to the same political party. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term. The members of the board shall be compensated as provided in section 59-509(f), Idaho Code, for each day spent in attendance at meetings of the board. A majority of members shall constitute a quorum, and a quorum at any meeting called by the director shall have full and complete power to act upon and resolve in the name of the board any matter, thing or question referred to it by the director, or which by reason of any provision of this chapter, it has the power to determine.

(2) The board shall, on the first day of each January or as soon thereafter as practicable, elect a chairman, vice-chairman and secretary from among its members, and these officers shall hold office until their successors are elected. As soon as the board has elected its officers, the secretary shall certify the results of the election to the director. The chairman shall preside at all meetings of the board and the secretary shall make a record of the proceedings which shall be preserved in the offices of the department. If the chairman is absent from any meeting of the board, his duties shall be discharged by the vice-chairman. All members of the board present at a meeting shall be entitled to vote on any question, matter, or thing which properly comes before it.

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 18, 1996.

CHAPTER 335
(H.B. No. 624, As Amended, As Amended)

AN ACT

RELATING TO THE OPERATION OF PERSONAL WATERCRAFT; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 67-7003, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-7031, IDAHO CODE, TO ALLOW THE ESTABLISHMENT OF OPERATION ZONES FOR PERSONAL WATERCRAFT BY POLITICAL SUBDIVISIONS; AND AMENDING CHAPTER 70, TITLE 67, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 67-7077 AND 67-7078, IDAHO CODE, TO PRESCRIBE OPERATION OF VESSELS, TO PROVIDE FOR PERSONAL WATERCRAFT LIVERIES, TO PROVIDE MANDATORY EDUCATION FOR PERSONAL WATERCRAFT LESSORS, AND TO PROVIDE PENALTIES.

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

SECTION 1. LEGISLATIVE INTENT. The legislature hereby finds that the regulation of personal watercraft as a separate and distinct type of vessel is necessary to protect the health, safety and general wel-

fare of its citizenry.

SECTION 2. That Section 67-7003, Idaho Code, be, and the same is hereby amended to read as follows:

67-7003. DEFINITIONS. In this chapter:

(1) "Actual physical control" means being in the operator's position of the vessel with the motor running or with the vessel moving.

(2) "Aids to navigation" means such buoys, batons, markers or other fixed objects in the water which are established and used to mark obstructions or to direct navigation through separate channels.

(3) "Authorized vendor" means a retail/commercial enterprise or government office authorized by the department to sell certificates of registration as provided in section 67-7008, Idaho Code.

(4) "Commercial vessel" means any vessel used in the carriage of any person, persons or property for a valuable consideration, whether directly or indirectly flowing to the owner, partner, agent or any other person interested in the vessel.

(5) "Department" means the Idaho department of parks and recreation.

(6) "Director" means the director of the Idaho department of parks and recreation.

(7) "Length of vessel" means the distance measured at the centerline at the highest point above the waterline from the fore-part of the outer hull at the bow to the aft-part of the outer hull at the stern, excepting any bowsprits, railings or extraneous or additional equipment.

(8) "Manufacturer" means any person who is engaged in the business of manufacturing or importing new and unused vessels for the purpose of sale or trade.

(9) "Operate" means to navigate or otherwise use a vessel on the water of this state.

(10) "Operator" means any person who controls the direction or propulsion of any vessel on the water of this state.

(11) "Owner" means any person having a property interest in or entitled to the use or possession of a vessel, including a person entitled to use or possession subject to the interest in another person reserved or created by agreement and securing payment of performance of an obligation, but not including a lessee under lease not intended as security.

(12) "Passenger" means every person carried aboard a vessel other than:

(a) The owner or his representative;

(b) The operator;

(c) A bona fide member of the crew engaged in the business of the vessel who has contributed no consideration for carriage and who is paid for his services; or

(d) Any guest on board a vessel which is used exclusively for pleasure purposes who has not contributed any consideration directly or indirectly for his carriage.

(13) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, except the United States and the state of Idaho, and includes any

agent, trustee, executor, reserve assignee or similar representative of any of the above.

(14) "Personal watercraft" means a small vessel which uses an outboard motor or an inboard motor powering a water jet pump as its primary source of power and is designed to be operated by a person sitting, standing or kneeling on, rather than in the conventional manner of sitting or standing inside the vessel.

(15) "Private label merchandiser" means any person engaged in the business of selling or distributing, under his own trade name, vessels manufactured by another.

(15~~6~~) "Regatta," "Race," "Marine Event," "Tournament," or "Exhibition" means an organized water event of limited duration which is conducted according to a prearranged schedule.

(16~~7~~) "Regulatory markers" means any fixed or anchored aid to navigation which is established and used, but is not limited to, the bathing beach markers, speed zone markers, information markers, swimming or diving markers, floating mooring buoys, fishing buoys or markers for ski courses or jumps.

(17~~8~~) "Rules of the road" means the statutory and regulatory rules governing the navigation of vessels as published by the United States Coast Guard in Navigational Rules International -- Inland.

(18~~9~~) "Vessel" means every description of watercraft, including a seaplane on the water, used or capable of being used as a means of transportation on water, but does not include diver's aids operated and designed primarily to propel a diver below the surface of the water, and nonmotorized devices ~~including~~ not designed or modified to be used as a means of transportation on the water, such as inflatable air mattresses, single inner tubes, and beach and water toys ~~not designed as a means of transportation on water~~.

(~~19~~20) "Water of this state" means any waters in the state of Idaho over which the state has jurisdiction.

SECTION 3. That Section 67-7031, Idaho Code, be, and the same is hereby amended to read as follows:

67-7031. MARKING OF WATER AREAS -- PROCEDURES -- LOCAL RULES. (1) The department may make or adopt appropriate rules ~~and regulations~~ for the marking of the water areas in this state through the placement of aids to navigation and regulatory markers. Such rules shall establish a marking system of aids to navigation prescribed by the United States Coast Guard and shall give due regard to the system of uniform waterway markers approved by the advisory panel of state officials to the merchant marine council of the United States Coast Guard. No city, county, other political subdivision or other person shall mark the waters of this state in any manner in conflict with the marking system prescribed by the department or without the specific authority of the department.

(2) The provisions of this chapter shall govern the operation, equipment, numbering and all other matters relating thereto whenever any vessel shall be operated on the waters of this state or when any activity regulated by this chapter shall take place thereon. Nothing in this chapter shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of vessels,

so long as such ordinances are not in conflict with the provisions of law.

(3) Any political subdivision of the state of Idaho may at any time, but only after sufficient public notice is given, adopt local ordinances with reference to the operation of vessels on any waters within its territorial limits or with reference to swimming within areas of intense or hazardous vessel traffic, provided the ordinances are intended to promote or protect the health, safety and general welfare of its citizenry.

(4) Any political subdivision of the state of Idaho may at any time, but only after sufficient public notice is given, adopt ordinances which establish operational zones for personal watercraft on any waters within its territorial limits. Personal watercraft operational zone designations are limited to:

(a) No wake or less than five (5) miles per hour;

(b) Personal watercraft only;

(c) No personal watercraft allowed; or

(d) Distance from shoreline.

SECTION 4. That Chapter 70, 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 67-7077 and 67-7078, Idaho Code, and to read as follows:

67-7077. OPERATION OF VESSELS. It shall be unlawful for any person to operate any vessel on the water of this state in a negligent manner as prescribed in section 67-7017, Idaho Code, while within one hundred (100) feet of another vessel, or at a speed greater than no wake or five (5) miles per hour while within one hundred (100) feet of a dock, swimmer or other person in the water.

67-7078. PERSONAL WATERCRAFT LIVERIES. (1) Any person who offers a personal watercraft for lease, hire or rent shall:

(a) Provide a Coast Guard approved Type I, II, III or V personal flotation device and any other required safety equipment to all persons who lease, hire or rent the personal watercraft at no additional charge;

(b) Display a safety information decal provided by the department describing laws, rules and safety measures pertaining to personal watercraft in a location clearly visible from the operator's position on each personal watercraft leased, hired or rented;

(c) Instruct each person that will operate the personal watercraft during the rental or lease period on the laws, rules and safe operation of the personal watercraft as prescribed by the department;

(d) Provide to the person leasing, hiring or renting the personal watercraft a written copy of acknowledgement of instruction on forms provided by the department. Each copy must contain the names and physical description of all persons eligible to operate the personal watercraft during the rental or lease period.

(2) It is unlawful for any person to operate a personal watercraft which is being rented, hired or leased before being instructed on the laws, rules and safe operation of personal watercraft by the

lessor as prescribed in this chapter.

(3) Any person operating a personal watercraft which is leased, hired or rented must carry on board a written copy of acknowledgement of instruction whenever the personal watercraft is in operation.

(4) Any person violating the provisions of this section shall be guilty of an infraction and punishable as provided in section 18-113A, Idaho Code.

Approved March 18, 1996.

CHAPTER 336
(H.B. No. 600)

AN ACT

RELATING TO DOMESTIC WATER SYSTEMS; AMENDING SECTION 37-2102, IDAHO CODE, TO PROVIDE FOR PROTECTION FROM SUBSTANCES WHICH TEND TO INJURE THE HEALTH OF ULTIMATE CONSUMERS OF WATER, TO PROVIDE FOR NOTICES BY PERSONS OR CORPORATIONS MAINTAINING WATER PLANTS AND TO PROVIDE FOR REPORTS AND PUBLIC SIGNS INDICATING NONCOMPLIANCE.

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

SECTION 1. That Section 37-2102, Idaho Code, be, and the same is hereby amended to read as follows:

37-2102. DOMESTIC WATER TO BE PROTECTED. Any person or persons, corporation or corporations, or officers of a municipality, owning or maintaining any plant or system for the supply to the inhabitants of this state, or any part thereof, of water for domestic purposes shall protect the same and keep it free from all impurities and all other foreign substances which tend to injure the health of the ultimate consumers of such water, whether such impurities or foreign substances are chemical or bacterial. It shall be the duty of any of the persons or corporations owning or maintaining such a plant to provide notices to those persons consuming such water of any variations from the standards established by the United States environmental protection agency. The standards for protection from impurities and the standards for chemical and bacterial purity in the state of Idaho shall be promulgated as rules by the state board of health and welfare and shall be consistent with this section of the drinking water standards of the United States ~~public health service~~ environmental protection agency, which standards are suitable for use in evaluating the quality and safety of water and water supply systems. The director of the department of health and welfare may in his discretion issue reports and post public signs indicating noncompliance with these standards.

Approved March 18, 1996.

CHAPTER 337
(H.B. No. 557)

AN ACT

RELATING TO MUNICIPAL ELECTIONS; AMENDING SECTION 50-432, IDAHO CODE, TO PROVIDE THAT NOMINATING PETITIONS FOR ELECTIVE CITY OFFICES SHALL BE FILED NOT MORE THAN SIXTY DAYS OR LESS THAN FORTY DAYS BEFORE ELECTION DAY.

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

SECTION 1. That Section 50-432, Idaho Code, be, and the same is hereby amended to read as follows:

50-432. TIME AND MANNER OF FILING PETITIONS. All petitions of nomination for elective city offices shall be filed with the clerk of the respective city wherein the elections are to be held, not more than ~~forty~~ sixty (~~4~~60) or less than ~~twenty-eight~~ forty (~~2~~840) days, including Sundays and holidays, immediately preceding election day. When the petition of nomination is presented for filing to the city clerk, he shall forthwith examine the same and ascertain whether it conforms to the provisions of chapter 4, title 50, Idaho Code. If found not sufficient, he shall immediately, in writing, designate on said nominating petition the defect, omission or reason why such petition is insufficient and shall return the same to the person named as the person to whom the petition may be returned in accordance with section 50-431, Idaho Code. The petition may then be amended and again presented to the clerk if within the time allowed for filing such, as in the first instance. The clerk shall forthwith proceed to examine the amended petition as hereinbefore provided for the original petition. If either the original or the amended form of petition be found sufficient, the clerk shall file the same, endorsing thereon the date and time upon which the petition was accepted by him. The city clerk shall not accept any nominating petitions after 5 p.m. on the final day for filing petitions.

Approved March 18, 1996.

CHAPTER 338
(H.B. No. 533, As Amended)

AN ACT

RELATING TO INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED; AMENDING SECTION 56-113, IDAHO CODE, TO PROVIDE FOR REIMBURSEMENT FOR SERVICES PROVIDED TO INDIVIDUALS RECEIVING MEDICAL ASSISTANCE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 56-113, Idaho Code, be, and the same is

hereby amended to read as follows:

56-113. INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED. (a) Services provided by intermediate care facilities for the mentally retarded ~~shall also be reimbursed in accordance with the provisions of this chapter, except that property costs shall not be reimbursed as provided in section 56-108, Idaho Code. Instead, property costs shall be reimbursed in accordance with applicable provisions of the health insurance manual 15, as promulgated by the U.S. department of health and human services (SSA-HIM-15). Provided, that facilities in operation prior to April 1, 1993, may negotiate a grandfathered rate for property reimbursement with the director. In no event shall the reimbursement of property costs to this class of facility exceed, in the aggregate, the amount which would be reimbursed using medicare payment principles as defined in SSA-HIM-15.~~

~~(b) Not later than January 1, 1982, and prior to the beginning of each fiscal year thereafter, the director shall determine the total prospective payment rate for all intermediate care facilities for the mentally retarded under medicaid contract with the director on or before the effective date of this chapter in the same manner as set forth in section 56-110, Idaho Code, except that the computation of the prospective payment according to the manner set forth in subsection (b)(1) of section 56-110, Idaho Code, shall include property costs as calculated in subsection (a) of this section.~~

~~(c) For the first fiscal year of an intermediate care facility for the mentally retarded established on or after January 1, 1982, which seeks to contract for the first time to provide medicaid services to recipients, the director shall determine payment for such facility in the same manner as specified in section 56-111, Idaho Code. Thereafter, such determination for such facility shall be done in accordance with subsection (b) of this section,~~ with the exception of state operated facilities, shall be paid in accordance with the provisions of this section, and not as provided in any other section of this chapter, unless otherwise provided in this section. State operated facilities shall be reimbursed costs based on medicare reasonable cost provisions.

(b) Except as otherwise provided in this section, intermediate care facilities for the mentally retarded shall be reimbursed based on a prospective rate system without retrospective settlement effective October 1, 1996. In no event, shall payments to this class of facility exceed, in the aggregate, the amount which would be reimbursed using medicare cost reimbursement methods as defined in the medicare provider reimbursement manual (HCFA - pub. 15).

(c) The prospective rate shall consist of the following components:

(1) A component for reasonable property costs which shall be computed using the property rental rate methodology set forth in section 56-108, Idaho Code, with the exceptions that the base rate shall exclude major moveable equipment and grandfathered rates will not apply. The initial base rate shall be eight dollars and ninety-four cents ($8.94) for facilities that accommodate residents in wheelchairs and five dollars and eighty-one cents ($5.81) for facilities that cannot accommodate residents in wheelchairs.

The rates shall be adjusted annually as provided in section 56-108, Idaho Code; and

(2) A component for forecasted reasonable day treatment costs which shall be subject to a per patient day limit as provided in rule; and

(3) A component for all other allowable costs as determined in accordance with department rules which shall be subject to a limitation based on a percentage of the forecasted median for such costs of intermediate care facilities for the mentally retarded, excluding state operated facilities; and

(4) A component that provides an efficiency increment payment of twenty cents ($.20) for each one dollar ($1.00) per patient day that the facility is under the limit described in subsection (c)(3) of this section up to a maximum payment of three dollars ($3.00) per patient day.

(d) In the event that the prospective payment system authorized by this section does not receive required federal approval and the department and providers are unable to negotiate an acceptable reimbursement methodology, services provided by intermediate care facilities for the mentally retarded shall be reimbursed in the same manner as specified in section 56-110, Idaho Code, with property reimbursed as described in subsection (c)(1) of this section.

(e) The director may require retrospective settlement as provided by rule in limited circumstances including, but not limited to:

(1) The facility fails to meet quality of care standards; or

(2) The facility is new or operated by a new provider, until such time as a prospective rate is set; or

(3) The prospective rate resulted from fraud, abuse or error.

(f) The director shall have authority to provide by rule, exceptions to the limitations described in subsection (c) of this section.

(g) The director shall promulgate the rules necessary to carry out the provisions of this section.

SECTION 2. This act shall be in full force and effect on and after October 1, 1996.

Approved March 18, 1996.

CHAPTER 339
(H.B. No. 503, As Amended in the Senate)

AN ACT

RELATING TO SPORT SHOOTING RANGES; AMENDING TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 26, TITLE 55, IDAHO CODE, PROVIDING THE LIABILITY OF A PERSON WHO OWNS OR USES A SPORT SHOOTING RANGE, PROVIDING LIMITATIONS UPON BRINGING A NUISANCE ACTION FOR NOISE RESULTING FROM A SPORT SHOOTING RANGE, PROVIDING FOR LOCAL REGULATION OF SPORT SHOOTING RANGES AND PROVIDING DEFINITIONS.

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

SECTION 1. That Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 26, Title 55, Idaho Code, and to read as follows:

CHAPTER 26
SPORT SHOOTING RANGES

55-2601. SPORT SHOOTING RANGE -- LIABILITY FOR NOISE POLLUTION. (1) Notwithstanding any other provision of law to the contrary, a person who operates or uses a sport shooting range in this state shall not be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range was established, constructed or operated prior to the implementation of any noise control laws, ordinances, rules or regulations, or if the range is in compliance with any noise control laws, ordinances, rules or regulations that applied to the range and its operation at the time of establishment, construction or initial operation of the range.

(2) Rules or regulations adopted by a state or local department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this act.

(3) A municipal noise control ordinance may not require or be applied so as to require a sport shooting range to limit or eliminate shooting activities that have occurred on a regular basis at the range prior to the enactment date of the ordinance.

55-2602. SPORT SHOOTING RANGE -- NUISANCE ACTION -- LIMITATIONS. (1) Except as provided in this section, a person may not maintain a nuisance action for noise against a shooting range located in the vicinity of that person's property if the shooting range was established as of the date the person acquired the property. If there is a substantial change in use of the range after the person acquires the property, the person may maintain a nuisance action if the action is brought within three (3) years from the beginning of the substantial change.

(2) A person who owns property in the vicinity of a shooting range that was established after the person acquired the property may maintain a nuisance action for noise against that shooting range only if the action is brought within five (5) years after establishment of the range or three (3) years after a substantial change in use of the range.

(3) If there has been no shooting activity at a range for a period of three (3) years, resumption of shooting is considered establishment of a new shooting range for purposes of this section.

55-2603. LOCAL REGULATION OF SPORT SHOOTING RANGE. (1) Except as otherwise provided in this act, this act does not prohibit a local unit of government from regulating the location and construction of a sport shooting range after the effective date of this act.

(2) Nothing in this act limits the ability of a local unit of government to regulate noise produced as a result of a substantial change in the use of the range.

55-2604. DEFINITIONS. As used in this act:

(1) "Local unit of government" means a county, city or a town.

(2) "Person" means an individual, proprietorship, partnership, corporation, club, or other legal entity.

(3) "Sport shooting range" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, archery, or any other similar sport shooting.

Approved March 18, 1996.

CHAPTER 340
(H.B. No. 499, As Amended in the Senate)

AN ACT

RELATING TO INCOME TAXATION OF NONRESIDENT OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS OR MEMBERS OF A CORPORATION OR PARTNERSHIP; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022L, IDAHO CODE, TO PROVIDE AN ELECTION FOR THE METHOD OF REPORTING CERTAIN INCOME EARNED IN IDAHO; AMENDING SECTION 63-3022, IDAHO CODE, TO DELETE REFERENCES TO INCOME OF NONRESIDENT OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS OR MEMBERS OF A CORPORATION OR PARTNERSHIP AND PROVIDE REFERENCE TO SECTION 63-3022L, IDAHO CODE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3022L, Idaho Code, and to read as follows:

63-3022L. NONRESIDENT OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS OR MEMBERS OF A CORPORATION OR PARTNERSHIP. (1) Nonresident officers, directors, shareholders, partners or members of a corporation or partnership transacting business in Idaho may elect to have Idaho taxable income described in subsection (2) of this section reported and taxed as Idaho taxable income of the corporation or partnership. Income subject to the election in this subsection shall be taxed at the rate applicable to corporations. The election shall be made on the return of the corporation or partnership from which the income is received and on which the income is reported in Idaho taxable income. The election in this section is not available to a nonresident who has Idaho taxable income in addition to income described in subsection (2) of this section.

(2) The election in subsection (1) of this section applies to:

(a) Wages, salary and other compensation paid to such nonresident officers, directors, shareholders, partners or members to the extent the compensation is Idaho taxable income of the nonresident to whom it is paid under section 63-3026A, Idaho Code; and

(b) The share of any income, loss, deduction or credit of an S

corporation or partnership required to be included on such nonresident shareholder's, partner's or member's federal return except that such amount shall first be apportioned and allocated in the manner provided in section 63-3027, Idaho Code.

(c) When the total income attributable to a nonresident under paragraphs (a) and (b) of this subsection is less than the filing requirement of the nonresident under section 63-3030(3), Idaho Code, the income is not income under this subsection.

(3) If no election is made and a nonresident officer, director, shareholder, partner or member of a corporation or partnership transacting business in Idaho fails to file an Idaho individual income tax return reporting all or any part of the items described in subsection (2) of this section or fails to pay any tax due thereof, such corporation or partnership shall include such items in its Idaho taxable income and be taxed at the rate applicable to corporations.

(4) The provisions of this section shall not apply to a corporation, other than an S corporation, with less than fifty per cent (50%) of its income taxable within this state.

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

63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtractions set forth in this section, and in sections 63-3022A through 63-3022J, Idaho Code, are to be applied to the extent allowed in computing Idaho taxable income:

(a) Add interest and dividends received or accrued during the taxable year from foreign securities and from securities issued by states and other political subdivisions, other than those issued by the state of Idaho, its cities and political subdivisions, exempt from federal income tax under the Internal Revenue Code, less applicable amortization.

(1) In the case of a corporation whose income is taxable under this chapter, no deduction shall be allowed for interest on indebtedness incurred or continued to purchase after January 1, 1983, or to carry obligations acquired after January 1, 1983, the interest of which is wholly exempt from the taxes imposed under this chapter. The amount of interest on indebtedness thus incurred or continued shall be an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's average adjusted basis of the obligations mentioned in the preceding sentence bears to such average adjusted basis for all assets of the taxpayer, or, at the option of the taxpayer, an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's interest income from the obligations mentioned in the preceding sentence bears to the taxpayer's total income for the taxable year.

(2) In the case of a corporation whose Idaho taxable income is computed pursuant to section 63-3027, Idaho Code, the interest expense deductible shall be an amount equal to interest and divi-

dend income subject to apportionment, plus the amount, if any, by which the balance of interest expense exceeds interest and dividend income not subject to apportionment. Interest expense not included in the preceding sentence shall be directly offset against interest and dividend income not subject to apportionment. This provision shall not apply to dividend income excluded pursuant to section 63-3027C(c) and (e), Idaho Code.

(b) Add any state taxes, measured by net income, paid or accrued during the taxable year adjusted for state tax refunds used in arriving at taxable income.

(c) Add the net operating loss deduction used in arriving at taxable income.

(d) (1) A net operating loss for any taxable year commencing on and after January 1, 1990, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars ($100,000) to the three (3) immediately preceding taxable years. Any portion of the net operating loss not subtracted in the three (3) preceding years may be subtracted in the next fifteen (15) years succeeding the taxable year in which the loss arises in order until exhausted. The sum of the deductions may not exceed the amount of the net operating loss deduction incurred. At the election of the taxpayer, the three (3) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next fifteen (15) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the year in which it is made. The term "income" as used in this subsection (d) means Idaho taxable income as defined in this chapter as modified by section 63-3021(b)(2), (3) and (4), Idaho Code.

(2) Net operating losses incurred by a corporation during a year in which such corporation did not transact business in Idaho 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.

(h) ~~In--the--case--of-a-corporation-with-more-than-fifty-per-cent (50%)-of-its-income-taxable-within-this-state,-a-portion-of-the--salaries,-wages,-fees-or-other-compensation-of-its-nonresident-officers-or directors--shall--be-treated-as-income-from-sources-within-this-state, whether-or-not-any-personal-services-have-been-performed-by-such--non-~~

~~resident-officers-or-directors-in-this-state.-The-portion-of-such-salaries,--wages,--fees--or--other--compensation-paid-to-such-nonresident officer-or-director-which-shall-be--treated--as--income--from--sources within-this-state-shall-be-determined-by-applying-to-the-total-of-such income--the--apportionment--factor-of-the-corporation-paying-the-salaries,-wages,-fees-or-other-compensation,-as-such-factor-is-reported-on the-corporation's-income--tax--return--computed--pursuant--to--section 63-3027,--Idaho--Code,--or-as-subsequently-modified.-If-such-salaries, wages,-fees-or-other-compensation-are-not-reported-to--this--state--as income,--such-corporation-shall-not-deduct-as-part-of-its-expenses-for the-taxable-year-that-portion-of-such-salaries,-wages,-fees--or--other compensation-which-is-to-be-treated-as-income-from-Idaho-sources-under this--subsection.--Provided,--however,-reasonable-compensation-paid-to such-nonresident-officers-or-directors-for-personal-services--actually performed--outside--the-state-of-Idaho-shall-not-be-included-as-income from-Idaho-sources~~ In the case of corporations and partnerships, add Idaho taxable income of nonresident officers, directors, shareholders, partners or members to the extent such income is attributed to the corporation or partnership in section 63-3022L, Idaho Code.

(i) For the purpose of determining the Idaho taxable income of the beneficiary of a trust or of an estate, distributable net income as defined for federal tax purposes shall be corrected for the other adjustments required by this section. In the event that a nonresident beneficiary of a trust or estate fails to file an Idaho income tax return reporting all or any part of distributable net income taxable in Idaho or fails to pay any tax due thereon, the trust or estate making the payment or distribution shall be taxable upon the amount of such distribution or payment at the rates established by section 63-3024, Idaho Code.

(j) In the case of an individual who is on active duty as a full-time officer, enlistee or draftee, with the armed forces of the United States, which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct compensation paid by the armed forces of the United States for services performed outside this state. The deduction is allowed only to the extent such income is included in taxable income, and provided that appropriate adjustments shall be made in determining the deductions and exemptions allowed pursuant to section 63-3026A(4), Idaho Code.

(k) In the case of a corporation, add any capital loss deducted which loss was incurred during any year in which such corporation did not transact business in Idaho. In the case of persons, other than corporations, add any capital loss deducted which was incurred in business activities not taxable by Idaho at the time such loss was incurred. ~~In-the-case-of-a-corporation-having-transacted--business--in this--state--and--having--elected--to--file-federal-income-tax-returns thereon-pursuant-to-subchapter-S-of-the-Internal-Revenue--Code,--or--a partnership-having-transacted-business-in-this-state,-a-portion-of-the salaries,--wages,--fees,--and--other--compensation-paid-to-nonresident shareholders-or-partners,-and-a-portion-of-the-items-of-income,--loss, deduction,--and--credit--allocated--to-each-nonresident-shareholder-or partner-shall-be-treated-as-having-sources-within-the--state,--whether or-not-any-personal-services-have-been-performed-in-this-state-by-such~~

~~nonresident--shareholders--or--partners.-The-portion-of-such-salaries,-wages,-fees,-and-other-compensations-paid-to-such--nonresident--shareholders--or--partners--and-the-portion-of-income,-loss,-deduction,-and-credit-allocated-to-such-shareholders--or--partners,--which--shall--be-treated--as-income-from-sources-within-this-state,-shall-be-determined-by-applying-to-the-total-of-such-income-the--apportionment--factor--of-the-corporation-or-partnership.-The-apportionment-factor-of-the-corporation--or-partnership-shall-be-computed-pursuant-to-the-provisions-of-section-63-3027,-Idaho-Code.-If-the-Idaho-portion--of--such--items--of-income,--loss,--deduction,--or--credit,-salaries,-wages,-fees-or-other-compensation-are-not-reported-to-this-state-by-the-nonresident--shareholders--or-partners,-such-corporation-or-partnership-shall-report-the-same-to-this-state-and-be-taxable-thereon-at-the-corporate-rate.--Provided,--however,--reasonable--compensation--paid--to--such-nonresident-shareholders-or-partners-for-personal-services-actually-performed-outside-the-state-of-Idaho-shall-not-be-included-as--income--earned--from-Idaho--sources.~~ In computing the income taxable to the corporation or partnership under this subsection, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (d) of this section or a capital loss provided for in section 1212 of the Internal Revenue Code.

(1) In the case of an individual, there shall be allowed as a deduction from gross income either (1) or (2) at the option of the taxpayer:

(1) a. The standard deduction as defined 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(d)(3) of the Internal Revenue Code. The taxable amount will include the ordinary income portion and the amount eligible for the capital gain election.

(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.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 1996.

Approved March 18, 1996.

CHAPTER 341
(H.B. No. 490, As Amended)

AN ACT

RELATING TO SCHOOL BONDS; AMENDING SECTION 33-1120, IDAHO CODE, TO PROVIDE THAT MONEY REMAINING AFTER A SCHOOL BOND AND INTEREST HAVE BEEN PAID SHALL BE CREDITED TO THE SCHOOL PLANT FACILITIES RESERVE FUND OR UNDER CONDITIONS SPECIFIED TO THE GENERAL FUND OF THE DISTRICT.

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

SECTION 1. That Section 33-1120, Idaho Code, be, and the same is hereby amended to read as follows:

33-1120. DISPOSITION OF MONEY REMAINING AFTER REDEMPTION. Any money remaining in the bond interest and redemption fund of any school district after all of any issue of school bonds and all interest thereon have been paid, redeemed and canceled shall be held to apply against the redemption of any other bonds issued by the district~~; if there remain no bonds outstanding~~ or, such money ~~shall~~ may be credited to the school plant facilities reserve fund; if the district has not established such fund, such money ~~shall~~ may be transferred to the credit of the general fund of the district. Any transfer or credit authorized by this section shall be upon resolution of the board of trustees.

Approved March 18, 1996.

CHAPTER 342
(H.B. No. 794, As Amended in the Senate)

AN ACT
RELATING TO THE PUBLIC TRUST DOCTRINE; AMENDING TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 12, TITLE 58, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS, TO DEFINE TERMS AND TO PROVIDE LIMITATIONS TO THE APPLICATION OF THE PUBLIC TRUST DOCTRINE.

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

SECTION 1. That Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 12, Title 58, Idaho Code, and to read as follows:

CHAPTER 12
PUBLIC TRUST DOCTRINE

58-1201. FINDINGS. The legislature hereby finds and declares:

(1) Upon admission of the state of Idaho into the union, the title to the beds of navigable waters became state property, and subject to its jurisdiction and disposal under the equal footing doctrine. According to the United States supreme court's decision in Shively v. Bowlby, the state has the right to dispose of the beds of navigable waters, "in such manner as [it] might deem proper,... subject only to the paramount right of navigation and commerce." The state has the right to determine for itself "to what extent it will preserve its rights of ownership in them, or confer them on others," Shively v. Bowlby, 152 U.S. 1, 56 (1893); and

(2) Since the admission of the state of Idaho into the union, article XV of the constitution of the state of Idaho has governed the appropriation and use of the waters of Idaho. Pursuant to article XV of the constitution of the state of Idaho, the legislature of the state of Idaho has enacted a comprehensive system of laws for the appropriation, transfer and use of the waters of Idaho, which addresses the public interest therein; and

(3) Upon admission of the state of Idaho into the union, the

state was granted certain lands by the United States government as an endowment for designated institutions. Article IX of the constitution of the state of Idaho, and laws enacted pursuant thereto, establish a comprehensive system of laws for the management of state endowment lands, which addresses the public interest therein; and

(4) The common law doctrine known as the public trust doctrine, adopted by inference in section 73-116, Idaho Code, has guided the alienation or encumbrance of the title to the beds of navigable waters held in trust by the state. The public trust doctrine has been cited in court decisions and pleadings in ways that have created confusion in the administration and management of the waters and endowment lands; and

(5) The public's interest in the environment is protected in other parts of Idaho's constitutional or statutory law; and

(6) The purpose of this act is to clarify the application of the public trust doctrine in the state of Idaho and to expressly declare the limits of this common law doctrine in accordance with the authority recognized in each state to define the extent of the common law.

58-1202. DEFINITIONS. For the purposes of this chapter, the following definitions apply:

(1) "Beds of navigable waters" means those lands lying under or below the "natural or ordinary high water mark" of navigable waters.

(2) "Natural or ordinary high water mark" means the line that water impresses on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes. When the soil, configuration of the surface, or vegetation has been altered by man's activity, the natural or ordinary high water mark shall be located where it would have been if no alteration had occurred.

(3) "Navigable waters" means those waters that were susceptible to being used, in their ordinary condition, as highways for commerce on the date of statehood, under the federal test of navigability.

(4) "Private property rights" means the property rights located above the beds of navigable waters.

(5) "Public trust doctrine" means the common law rule relating to the title to the beds of navigable waters adopted by inference in section 73-116, Idaho Code.

58-1203. LIMITATIONS TO THE APPLICATION OF THE PUBLIC TRUST DOCTRINE. (1) The public trust doctrine as it is applied in the state of Idaho is solely a limitation on the power of the state to alienate or encumber the title to the beds of navigable waters as defined in this chapter. The state board of land commissioners may approve, modify or reject all activities involving the alienation or encumbrance of the beds of navigable waters in accordance with the public trust doctrine.

(2) The public trust doctrine shall not be applied to any purpose other than as provided in this chapter. Specifically, but without limitation, the public trust doctrine shall not apply to:

(a) The management or disposition of lands held for the benefit of the endowed institutions as set forth in article IX of the constitution of the state of Idaho;

(b) The appropriation or use of water, or the granting, transfer,

administration, or adjudication of water or water rights as provided for in article XV of the constitution of the state of Idaho and title 42, Idaho Code, or any other procedure or law applicable to water rights in the state of Idaho; or

(c) The protection or exercise of private property rights within the state of Idaho.

(3) Nothing in this chapter shall be construed as a limitation on the power of the state to authorize public or private use, encumbrance or alienation of the title to the beds of navigable waters held in public trust pursuant to this chapter for such purposes as navigation, commerce, recreation, agriculture, mining, forestry, or other uses, if, in the judgment of the state board of land commissioners, the grant for such use is made in accordance with the statutes and constitution of the state of Idaho.

(4) Nothing in this chapter shall be construed as repealing, limiting, or otherwise altering any statutory or constitutional provision of the state of Idaho including, but not limited to: title 42, Idaho Code, concerning the appropriation, transfer and use of the waters of Idaho; title 36, Idaho Code, concerning the regulation and management of fish and game and the right of public access on navigable waters; title 58, Idaho Code, relating to state lands and navigational encroachments; or chapter 43, title 67, Idaho Code, concerning the appropriation of waters in trust by the state of Idaho.

Approved March 19, 1996.

CHAPTER 343
(H.B. No. 825)

AN ACT

RELATING TO TAXATION OF GASOLINE AND AIRCRAFT ENGINE FUELS AND MOTOR VEHICLE REGISTRATION FEES; AMENDING SECTION 40-701, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF REVENUES DERIVED FROM THE INCREASE IN GASOLINE AND AIRCRAFT ENGINE FUELS TAX TO THE RESTRICTED HIGHWAY FUND AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 7, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-701A, IDAHO CODE, TO ESTABLISH THE RESTRICTED HIGHWAY FUND, TO PROVIDE FOR APPORTIONMENT OF MONEYS FOR THE STATE AND LOCAL MATCH TO FEDERAL EMERGENCY HIGHWAY MONEYS AND TO PROVIDE FOR APPORTIONMENT OF MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT AND LOCAL HIGHWAY JURISDICTIONS; AMENDING SECTION 49-402, IDAHO CODE, TO INCREASE THE REGISTRATION FEE FOR PICKUP TRUCKS AND MOTOR VEHICLES NOT IN EXCESS OF EIGHT THOUSAND POUNDS GROSS WEIGHT, TO PROVIDE FOR DISTRIBUTION OF THE REVENUES DERIVED FROM THE INCREASE TO THE RESTRICTED HIGHWAY FUND AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-2405, IDAHO CODE, TO INCREASE THE TAX ON GASOLINE AND AIRCRAFT ENGINE FUEL TO TWENTY-FIVE CENTS PER GALLON; PROVIDING AN EFFECTIVE DATE FOR SECTIONS 1, 2 AND 4 OF THIS ACT; AND PROVIDING AN EFFECTIVE DATE FOR SECTION 3 OF THIS ACT.

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

SECTION 1. That Section 40-701, Idaho Code, be, and the same is hereby amended to read as follows:

40-701. HIGHWAY DISTRIBUTION ACCOUNT -- APPORTIONMENT. (1) There is established in the state treasury an account known as the "Highway Distribution Account," to which shall be credited:

(a) Moneys as provided by sections 63-2412(1)~~(f)~~3(e)4 and 63-2418(3), Idaho Code;

(b) All moneys collected by the department, their agents and vendors, and county assessors and sheriffs, under the provisions of title 49, Idaho Code, except as otherwise specifically provided for; and

(c) All other moneys as may be provided by law.

(2) The highway distribution account shall be apportioned as follows:

(a) An amount equivalent to the net increase in gasoline fuel tax exceeding twenty-one cents (21¢) per gallon shall be deposited to the restricted highway fund, and the remainder shall be distributed:

(b) Thirty-five and seventy-seven hundredths per cent (35.77%) to local units of government as provided in section 40-709, Idaho Code;

(~~b~~c) Fifty-eight and eighty-three hundredths per cent (58.83%) to the state highway account established in section 40-702, Idaho Code; and

(~~c~~d) Five and forty hundredths per cent (5.40%) to the law enforcement account, established in section 67-290~~1~~4, Idaho Code.

The state controller shall ~~remit~~ cause the remittance of the moneys apportioned to local units of government not later than January 25, April 25, July 25 and October 25 of each year, and to the state highway account and the law enforcement account as the moneys become available to the highway distribution account.

(3) Interest earned on the investment of idle moneys in the highway distribution account shall be paid to the highway distribution account.

(4) All idle moneys in the dedicated highway trust or asset accounts or subaccounts established from highway user revenues, reimbursements, fees or permits shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the various highway trust or asset accounts and subaccounts.

SECTION 2. That Chapter 7, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-701A, Idaho Code, and to read as follows:

40-701A. RESTRICTED HIGHWAY FUND. (1) In order to insure that authorized increases in highway user taxes and fees are expended exclusively on the construction and maintenance of highways, bridges and railroad crossings, there is established in the state treasury the "Restricted Highway, Bridge and Railroad Crossing Maintenance, Repair

and Construction Fund" hereafter referred to as the restricted highway fund, to which shall be credited:

(a) Moneys as provided by sections 49-402(1) and 40-701(2)(a), Idaho Code; and

(b) All other moneys as may be provided by law; and

(c) Interest earned on the investment of idle moneys in the restricted fund shall be paid to the restricted highway fund.

(2) Moneys in the fund shall be apportioned as follows:

(a) Beginning April 1, 1996, all moneys accruing to the fund in an amount not to exceed six million dollars ($6,000,000) shall be transferred to the state highway account to be administered by the Idaho transportation department for use as the state and local match for federal highway administration (FHWA) and federal emergency management agency (FEMA) road and bridge projects. Such moneys shall be used exclusively for repair and restoration of local and state roads damaged by the 1996 flooding in the counties of Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone. When apportionment of moneys to the state highway account is sufficient to meet the purposes for which the moneys are designated, but not exceeding six million dollars ($6,000,000), no additional transfers shall be made as provided in this subsection, and moneys accruing to the fund shall thereafter be apportioned as provided in subsections (2)(b) and (2)(c) of this section. Any unused moneys transferred to the state highway account under the provisions of this subsection shall be returned to the restricted highway fund.

(b) Fifty percent (50%) to the state highway account; and

(c) Fifty percent (50%) to local highway jurisdictions in accordance with the provisions of section 40-709, Idaho Code.

(3) Subsequent to apportionment of moneys as required in subsection (2)(a) of this section, the state controller shall remit moneys apportioned to the state highway account, and shall cause the remittance of moneys apportioned to the local highway jurisdictions not later than January 25, April 25, July 25 and October 25 of each year.

(4) Moneys apportioned from the fund as provided in subsections (2)(b) and (2)(c) of this section shall be used exclusively for the construction, repair and maintenance of the roads, highways, bridges and railroad crossings within the state.

(5) On or before February 1 of each year, the Idaho transportation department and the local highway technical assistance council shall each submit a report to both the senate transportation committee and the house transportation and defense committee of the Idaho legislature, which provides a detailed accounting of the moneys apportioned, the projects for which moneys from the fund were expended, and the effect such expenditures have had on addressing the backlog of highway, bridge and railroad crossing needs.

SECTION 3. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds, designed for

the purpose of carrying passengers and not used for hire shall be:

Vehicles one (1) and two (2) years old .....~~$36.~~48.00

Of the registration fees collected for vehicles one (1) and two (2) years old, $36.48 shall be deposited to the highway distribution account and $11.52 shall be deposited to the restricted highway fund.

Vehicles three (3) and four (4) years old .....~~33.48~~$36.00

Of the registration fees collected for vehicles three (3) and four (4) years old, $33.48 shall be deposited to the highway distribution account and $2.52 shall be deposited to the restricted highway fund.

Vehicles five (5) and six (6) years old .....~~26.28~~$36.00

Of the registration fees collected for vehicles five (5) and six (6) years old, $26.28 shall be deposited to the highway distribution account and $9.72 shall be deposited to the restricted highway fund.

Vehicles seven (7) and eight (8) years old .....~~22.68~~$24.00

Of the registration fees collected for vehicles seven (7) and eight (8) years old, $22.68 shall be deposited to the highway distribution account and $1.32 shall be deposited to the restricted highway fund.

Vehicles over eight (8) years old .....~~16.08~~$24.00

Of the registration fees collected for vehicles over eight (8) years old, $16.08 shall be deposited to the highway distribution account and $7.92 shall be deposited to the restricted highway fund.

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers ending in 1, and proceeding consecutively through December for holders of validation registration stickers ending in 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all motor vehicles equipped to carry passengers and operated primarily for hire exclusively within the limits of an incorporated city and adjacent thereto, when the service outside the city is a part of a regular service rendered inside the city, and for school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting

children to or from school or in connection with school approved activities, the annual fee shall be twelve dollars and forty-eight cents ($12.48).

(3) For all hearses, ambulances and wreckers the annual fee shall be twenty-nine dollars and forty cents ($29.40), and these vehicles shall bear passenger car plates. No operator of a hearse, ambulance, or wrecker shall be entitled to operate them by virtue of any dealer's license that may have been issued under the provisions of this chapter.

(4) For all motorcycles and all-terrain vehicles the annual fee shall be nine dollars ($9.00). For operation of an ATV off the public highways, the fee specified in section 67-7122, Idaho Code, shall also be paid.

(5) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(6) Registration fees shall not be subject to refund.

(7) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

(8) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars ($25.00) and an annual program fee of fifteen dollars ($15.00) for all special license plate programs except for those license plates issued pursuant to sections 49-403, 49-403A, 49-404, 49-406, 49-406A, 49-410, 49-415 and 49-415B, Idaho Code. The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs which are provided to the public as a personal alternative to the standard license plate requirements.

SECTION 4. That Section 63-2405, Idaho Code, be, and the same is hereby amended to read as follows:

63-2405. IMPOSITION OF TAX. (1) An excise tax is hereby imposed on all gasoline and/or aircraft engine fuel received. The tax is to be paid by the licensed distributor, and measured by the total number of gallons of gasoline and/or aircraft engine fuel received by him, at the rate of twenty-~~one~~five cents (2~~1~~5¢) per gallon. That tax, together with any penalty and/or interest due, shall be remitted with the monthly distributor's report required in section 63-2406, Idaho Code.

(2) The excise tax rate set forth in this section shall, when applied to gasohol or to special fuels designed for use in diesel

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

SECTION 5. Sections 1, 2 and 4 of this act shall be in full force and effect on and after April 1, 1996.

SECTION 6. Section 3 of this act shall be in full force and effect on and after January 1, 1997.

Approved March 19, 1996.

CHAPTER 344
(S.B. No. 1508)

AN ACT

RELATING TO COOPERATIVE CORPORATIONS OR ASSOCIATIONS PROVIDING GOODS OR SERVICES; AMENDING CHAPTER 8, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-809, IDAHO CODE, TO PROVIDE THE RIGHT OF LIEN AGAINST AN EQUITY INTEREST FOR COOPERATIVE CORPORATIONS OR ASSOCIATIONS WHICH PROVIDE GOODS OR SERVICES.

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

SECTION 1. That Chapter 8, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-809, Idaho Code, and to read as follows:

45-809. LIEN FOR COOPERATIVE CORPORATIONS OR ASSOCIATIONS. Any cooperative corporation, as defined by Idaho Code, which provides goods or services to any person, firm or corporation, may set off any equity interest owned by such person, firm or corporation in the cooperative as a means of collecting obligations owed to it for such goods or services. Equity shall include, but not be limited to, membership stock, capital credits, accounts representing capital credits, capital stock or patronage credits. The cooperative shall have a lien on and a continuing perfected security interest in such equity to secure payment of any indebtedness, whenever incurred, owed to the cooperative by the person, firm or corporation receiving goods or services. Such lien and continuing perfected security interest may be enforced by right of offset when it becomes due and payable under the articles or bylaws of the cooperative. The cooperative's right of offset shall not entitle the debtor to set off its obligations against equity interest it owns in the cooperative which are not yet an obligation of the cooperative payable under the article or bylaws of the cooperative.

Approved March 19, 1996.

CHAPTER 345
(S.B. No. 1541)

AN ACT

RELATING TO THE WATER POLLUTION CONTROL ACCOUNT; AMENDING SECTIONS 39-3629, 39-3630, 39-3631 AND 39-3632, IDAHO CODE, TO INCLUDE WATER FACILITY LOANS WITHIN PROVISIONS OF THE WASTEWATER FACILITY LOAN ACCOUNT.

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

SECTION 1. That Section 39-3629, Idaho Code, be, and the same is hereby amended to read as follows:

39-3629. WATER AND 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 water and wastewater facility loan account. Surplus moneys in the water and 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 water and wastewater facility loan account. The account shall have paid into it:

1. Federal funds which are received by the state to provide for water and 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 39-3628, 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 2. That Section 39-3630, Idaho Code, be, and the same is hereby amended to read as follows:

39-3630. 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 39-3633, 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 water and wastewater facility loan account established in section 39-3629, Idaho Code, including the required matching share of federal capitalization funds.

SECTION 3. That Section 39-3631, Idaho Code, be, and the same is hereby amended to read as follows:

39-3631. APPROPRIATION OF WATER AND WASTEWATER FACILITY LOAN ACCOUNT -- PURPOSE OF CHAPTER. Moneys in the water and 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.

3. To provide funds, subject to annual federal and state appropriations and applicable federal limitations, for operation of the water facility loan program by the department of health and welfare.

SECTION 4. That Section 39-3632, Idaho Code, be, and the same is hereby amended to read as follows:

39-3632. 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 water and 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.

Approved March 19, 1996.

CHAPTER 346
(H.B. No. 846)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 1997; 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, 1996, through June 30, 1997:

FROM:	
General Fund	$ 3,125,300
Federal Grants Fund	10,040,300
Rehabilitation Revenue and Refunds Fund	400,000
Miscellaneous Revenue Fund	242,000
Business and Industry Services Fund	38,200
TOTAL	$13,845,800

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, 1996, through June 30, 1997:

A. RENAL DISEASE:	
FROM:	
General Fund	$ 468,400
FOR:	
Trustee and Benefit Payments	$ 468,400
B. VOCATIONAL REHABILITATION:	
FROM:	
General Fund	$ 2,570,900
Federal Grants Fund	9,857,100
Rehabilitation Revenue and Refunds Fund	400,000
Miscellaneous Revenue Fund	232,600
Business and Industry Services Fund	38,200
TOTAL	$13,098,800
FOR:	
Personnel Costs	$ 5,462,300
Operating Expenditures	881,000
Capital Outlay	81,100
Trustee and Benefit Payments	6,674,400
TOTAL	$13,098,800
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	183,200
Miscellaneous Revenue Fund	9,400
TOTAL	$ 209,600
FOR:	
Personnel Costs	$ 76,000
Operating Expenditures	83,000
Trustee and Benefit Payments	50,600
TOTAL	$ 209,600
GRAND TOTAL	$13,845,800

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, 1996, through June 30, 1997, 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.

Law Without Signature.

CHAPTER 347
(S.B. No. 1568)

AN ACT
AUTHORIZING THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO ACCEPT APPLICATIONS FOR EARLY RETIREMENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. The State Superintendent of Public Instruction is hereby authorized to accept applications for early retirement on and after the effective date of this act and undertake necessary administrative functions pursuant to Section 33-1004G, Idaho Code, as enacted by House Bill No. 526, Second Regular Session, Fifty-third Idaho Legislature.

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.

Law Without Signature.

CHAPTER 348
(S.B. No. 1472)

AN ACT

RELATING TO SCHOOL ATTENDANCE AND DRIVING PRIVILEGES; AMENDING SECTION 49-303, IDAHO CODE, TO EXPAND WHAT PERSONS SHALL NOT BE LICENSED; AMENDING CHAPTER 3, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-303A, IDAHO CODE, TO PROVIDE THAT SCHOOL ATTENDANCE SHALL BE REQUIRED FOR DRIVING PRIVILEGES AND TO PROVIDE PROCEDURES; AMENDING SECTION 49-326, IDAHO CODE, TO PROVIDE ADDITIONAL AUTHORITY FOR THE DEPARTMENT TO SUSPEND A DRIVER'S LICENSE; AMENDING SECTION 49-305, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS FOR PERSONS UNDER EIGHTEEN YEARS OF AGE WHO ARE APPLYING FOR AN INSTRUCTION PERMIT; AMENDING SECTION 49-310, IDAHO CODE, TO REQUIRE ATTESTATION OF COMPLIANCE WITH SCHOOL ATTENDANCE PROVISIONS; AND AMENDING CHAPTER 2, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-211, IDAHO CODE, TO PROVIDE AUTHORITY TO SCHOOL DISTRICTS REGARDING STUDENTS' DRIVER'S LICENSES.

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

SECTION 1. That Section 49-303, Idaho Code, be, and the same is hereby amended to read as follows:

49-303. WHAT PERSONS SHALL NOT BE LICENSED. The department shall not issue any driver's license, instruction permit, driver's training permit, privileges or right to drive and if issued, may revoke or cancel the driver's license of a person who:

(1) As an operator of a vehicle requiring a class D driver's license, is under the age of seventeen (17) years, except that the department may issue a driver's license to any person who has successfully completed an approved driver training course and who is at least fifteen (15) years of age, with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age. The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

(2) As an operator of a vehicle requiring a class D driver's license, is under the age of seventeen (17) years and has not successfully completed an approved driver training course.

(3) As an operator of a commercial vehicle requiring a class A, B or C driver's license is under the age of eighteen (18) years.

(4) Applicants with less than one (1) year of driving experience, as evidenced by a valid class D driver's license shall not be issued a class A, B or C driver's license.

(5) As a driver has had his license, instruction permit, driver training permit, privileges or right to drive suspended for the duration of the suspension, nor to any person whose license has been revoked, until the expiration of one (1) year after the license was revoked.

(6) Is an habitual drunkard, or is addicted to the use of narcotic drugs.

(7) Has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law.

(8) Is required by the provisions of this chapter to take an examination, unless that person shall have successfully passed such examination.

(9) May be required under any law of this state to deposit proof of financial responsibility and who has not deposited that proof.

(10) The department has good cause to believe that the operation of a motor vehicle on the highways by that person would be harmful to public safety or welfare.

(11) Is disqualified for a class A, B or C license, except he may be issued a class D driver's license.

(12) Is under eighteen (18) years of age and is not enrolled in school, has not received a waiver pursuant to or has not satisfactorily completed school as provided in section 49-303A, Idaho Code.

SECTION 2. That Chapter 3, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-303A, Idaho Code, and to read as follows:

49-303A. DRIVER'S LICENSE ISSUED TO CERTAIN PERSONS UNDER THE AGE OF EIGHTEEN YEARS. (1) Attendance requirements. The department may issue a driver's license or instruction permit to a minor younger than eighteen (18) years of age if, at the time of application, the minor:

(a) Has received a high school diploma, a high school equivalency diploma, a special diploma or a certificate of high school completion;

(b) Is enrolled in a public or private school and satisfies relevant attendance requirements;

(c) Is enrolled in a study course in preparation for a test of general educational development and satisfies relevant attendance requirements;

(d) Is enrolled in a home education program and satisfies the requirements of rules of the state board of education and the state department of education for such programs; provided that students shall be in compliance with the requirements and have been enrolled in the home education program for at least one (1) school year prior to verification of the attendance request, unless documentation of meeting the requirements of this section in the school year contiguous to enrollment in the home education program can be provided;

(e) Is enrolled in an accredited college or university;

(f) Is enrolled in a postsecondary vocational program or a postsecondary adult vocational program and satisfying relevant attendance requirements;

(g) Is enrolled in a job training program pursuant to state or federal law and satisfying relevant attendance requirements; or

(h) Is enrolled in other educational activities approved by the board of trustees of the school district and satisfying relevant attendance requirements.

(2) (a) An applicant for a driver's license who is under the age of eighteen (18) shall provide written verification of compliance with the requirements of subsection (1) of this section or receipt of a waiver therefrom pursuant to subsection (3) of this section to the department. The necessary verification shall be obtained from the school district. If the applicant is enrolled in or has graduated from a private high school, the verification shall be obtained by the applicant from the governing body of the private school. A school district shall not refuse to provide written verification of compliance with the requirements of this section to the department.

(b) Schools may implement interventions designed to improve student attendance with their district policies and procedures.

(c) When applying for a license or permit, an applicant under age eighteen (18) must provide written verification to the department of compliance with the requirements of subsection (1) of this section or receipt of a waiver therefrom, pursuant to subsection (3) of this section. Written verification shall be obtained from the applicant's school. The applicant's school shall not refuse to provide written verification of compliance with the requirements of this section to the department.

(3) (a) A public school principal, or the principal's designee, or the designee of the governing body of a private school shall provide written notification to a minor and the minor's parent, guardian or custodian of the school district's or private school's intent to request that the department suspend the minor's driving privileges because the minor has dropped out of school and has failed to comply with the requirements of subsection (1) of this section.

(b) The minor or the parent, guardian or custodian of the minor shall have fifteen (15) calendar days from the date of receipt of this notice to request a hearing before the public school principal, or the principal's designee, or the designee of the governing body of a private school for the purpose of reviewing the pending suspension. The hearing shall be conducted within thirty (30) calendar days after the public school principal, or the principal's designee, or the designee of the governing body of a private school receives the request.

(c) The public school principal, or the principal's designee, or the designee of the governing body of a private school shall waive the requirements of subsection (1) of this section for any minor under its jurisdiction for whom a personal or family hardship requires that the minor have a driver's license for his or her own or his or her family's employment or medical care. The public school principal, or the principal's designee, or the designee of the governing body of a private school shall take into account the recommendations of teachers, other school officials, guidance counselors or academic advisors prior to granting a waiver to the requirements of subsection (1) of this section.

(d) The hardship waiver provided in paragraph (c) of this section shall be requested, if desired by the minor or the minor's parent, guardian or custodian at the initial hearing.

(4) Any person denied a hardship waiver by a public school prin-

cipal, or the principal's designee, or the designee of the governing body of a private school may appeal the decision to the board of trustees of the school district or the governing body of the private school. The public or private school shall notify the department of all students not in compliance with subsection (1) of this section or who have been granted a hardship waiver pursuant to subsection (3) of this section.

(5) Upon receiving written verification that the minor is again in compliance with the requirements of subsection (1) of this section, the department shall reinstate the minor's privilege to drive. Thereafter, if the school district determines that the minor is not in compliance with the requirements of subsection (1), the department shall suspend the minor's driving privilege until the minor is eighteen (18) years old or otherwise satisfies the requirements of subsection (1) of this section, whichever occurs first.

(6) The department shall report quarterly to each school district the disposition of all requests to suspend driver's licenses of students of that district. Beginning with the 1996-97 school year, each school district and each private school shall report the number of notifications issued of possible student driver's license suspensions based on nonattendance, requests to the department to suspend a driver's license and student driver's licenses actually suspended.

SECTION 3. That Section 49-326, Idaho Code, be, and the same is hereby amended to read as follows:

49-326. AUTHORITY OF DEPARTMENT TO SUSPEND, DISQUALIFY OR REVOKE DRIVER'S LICENSE AND PRIVILEGES. (1) If the court has not ordered the suspension of a license or privileges, the department is authorized to suspend, disqualify or revoke the license or privileges of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the driver:

(a) Has committed an offense for which mandatory revocation or disqualification of license or privileges is required upon conviction;

(b) Has been convicted in any court in this state of an offense against a municipal ordinance which would have been grounds for suspension, revocation or disqualification of his driver's license or privileges had the charge been prosecuted under a state law;

(c) Is incompetent to drive a motor vehicle;

1. Any person who in the opinion of the department, based upon recommendation of the person's personal physician, is afflicted with or subject to any condition which brings about momentary or prolonged lapses of consciousness or control, which is or may become chronic, or when the person is suffering from a physical or mental disability or disease serving to prevent him from exercising reasonable and ordinary control over a motor vehicle while operating it upon the streets and highways, or any person who is unable to understand highway signs, warning, regulating or directing traffic, is incompetent to drive a motor vehicle.

2. Any person who shall not have minimum visual acuity with or without corrective lenses of 20/40 in at least one (1) eye

as determined by the Snellen system or other available systems is incompetent to operate a motor vehicle, however, the department shall have the authority to license such person upon the recommendation of an ophthalmologist or qualified physician and upon passage of a skills test. At 20/70 or more in both eyes with or without corrective lenses the department may suspend the driver's license and privileges. Any person who applies for or receives any type of tax, welfare or other benefits or exemptions for the blind shall be conclusively presumed incompetent to operate a motor vehicle.

3. Any person, department, or political subdivision of the state of Idaho who receives an application for any type of tax, welfare, aid or other benefits or exemptions for the blind shall immediately forward the name, address, sex, date of birth, and date of application of the applicant to the department;

(d) Has permitted an unlawful or fraudulent use of a driver's license;

(e) Has committed an offense in another state which if committed in Idaho would be grounds for suspension, disqualification or revocation;

(f) Has been convicted of the offense of reckless driving, or fleeing or attempting to elude a peace officer, and providing that the operating privilege shall be suspended for a period of thirty (30) days upon conviction and providing further, that if a second conviction occurs within a two (2) year period of time from the time of the first conviction, the suspension shall be for ninety (90) days, and if a third conviction shall occur within a three (3) year period of time from the time of the first conviction, the period of suspension shall be for one (1) year;

(g) Has failed to satisfy a judgment as set forth in chapter 12, title 49, Idaho Code;

(h) Has failed to maintain proof of financial responsibility as set forth in chapter 12, title 49, Idaho Code;

(i) Has a driving record which shows a violation point count of twelve (12) or more points in any consecutive twelve (12) month period;

(j) Is an habitual violator of traffic laws;

(k) Has been convicted of the offense of violation of a restricted license and providing the driver's license and privileges be suspended for a period of thirty (30) days;

(l) Has been convicted for the offense of leaving the scene of an accident involving damages to a vehicle, the period of revocation shall be one (1) year;

(m) Has been convicted for the offense of leaving the scene of an accident resulting in injury or death, the period of revocation shall be one (1) year.

<u>(n) Is under the age of eighteen (18) years and is not satisfactorily enrolled in school, has not received a waiver pursuant to or has not completed school as provided in section 49-303A, Idaho Code.</u>

(2) A violation point is assessed for conviction of any charge or with proof of any infraction involving a moving traffic violation. A

value of one (1) point shall be given for a less serious violation and up to four (4) points for a more serious violation. Conviction or proof of infraction for only one (1) violation arising from one (1) occasion of arrest or citation shall be counted in determining the violation point count.

(3) The department is authorized and directed to establish a violation point count system for various moving traffic violations and infractions occurring either within or without the state of Idaho, affecting all holders of driver's licenses issued by the department.

(4) Upon suspending, revoking or disqualifying the driver's license or privileges of any person, the department shall immediately notify the licensee in writing, and upon his request shall afford him an opportunity for a hearing before the director. The hearing shall be held within twenty (20) days after receipt of the request. The place of the hearing shall be designated by rule of the department in one (1) or more location in each of the administrative districts of the department which are headquartered at Coeur d'Alene, Lewiston, Boise, Shoshone, Pocatello and Rigby. The notice and hearing shall be required prior to the imposition of additional suspension or disqualification periods beyond the periods as set forth in this section. Upon a hearing the director or his duly authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee. Upon the hearing the department shall either rescind its order or, with good cause, may extend the suspension or disqualification of the driver's license or revoke the driver's license.

Whenever a driver's license, permit or driving privilege has been suspended or revoked by the department as provided in this section, other than as set forth in subsections (1)(c), (d), (g), (h), ~~or~~ (m) or (n), the department may issue a temporary restricted permit restricting the time, area and purpose of use. The application, eligibility requirements and form of the temporary restricted permit shall be provided by administrative rule.

(5) The department shall not suspend a driver's license or privileges for a period of more than one (1) year and upon revoking a driver's license or privileges shall not in any event grant application for a new driver's license until the expiration of one (1) year after the revocation. The provisions of this subsection shall not be applicable with respect to the issuance of temporary restricted permits as provided in section 49-325, Idaho Code.

(6) The department shall not disqualify a driver for a period longer than specified by 49 CFR part 383.

SECTION 4. That Section 49-305, Idaho Code, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS -- TEMPORARY LICENSES -- TEMPORARY DRIVER'S TRAINING INSTRUCTION PERMIT. (1) Upon passage of a knowledge test for the license class type, the department may issue an instruction permit for the type of vehicle(s) the person will be operating, entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of at

least one hundred eighty (180) days. That person must be accompanied by an adult licensed driver who holds at least the same class of driver's license and who is actually occupying a seat beside the driver.

(a) Any person who has reached the age of fifteen (15) years, and who has successfully completed an approved driver training course may apply for a class D instruction permit with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age. The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. Any person applying for an instruction permit or driving privileges who is under the age of eighteen (18) years shall be in compliance with school attendance requirements of section 49-303A, Idaho Code.

(b) Any person who has reached the age of eighteen (18) years may apply for a class A, B or C instruction permit.

(c) Until October 1, 1993, direct, uninterrupted audio or audio-visual electronic communication between the holder of a class A, B or C instruction permit and a driver instructor may be substituted for the driver instructor's physical presence in the vehicle if:

(i) The driver instructor holds the same or higher class of driver's license; and

(ii) The behind-the-wheel instruction is administered pursuant to a driver training program that is formally recognized and operated within the state according to state standards for such programs; and

(iii) The behind-the-wheel instruction occurs solely within the boundaries of the state and within the radius of uninterrupted electronic communication between the permit holder and the driver instructor as long as the distance between the two (2) parties does not exceed one (1) mile; and

(iv) The behind-the-wheel training occurs while the vehicle is used for training purposes exclusively and not for purposes of transporting passengers or property; and

(v) The vehicle being driven is not of a type whose operator would require an endorsement on his driver's license for double/triple trailers, tank vehicles or hazardous material.

(d) On and after April 1, 1992, federal highway administration rules and regulations concerning instruction permits, as specified in 49 CFR part 383, will be in effect for commercial motor vehicles.

(2) The department may, in its discretion, issue a temporary class D driver's license to an applicant for a class D driver's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary license must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's driver's license has been issued or for good cause has been refused.

(3) If an applicant for a driver's training instruction permit cannot provide a certified copy of his birth certificate at the time of application, the department may issue a temporary driver's training

instruction permit upon receipt of both a photo identification and a letter from the school verifying the applicant's enrollment in a driver training course. Upon receipt of the certified copy of the birth certificate, the department shall issue the driver's training instruction permit.

(~~3~~4) Upon application for a motorcycle endorsement upon his valid driver's license and upon successful completion of the motorcycle riders knowledge test, in addition to payment of the appropriate fees, the department may issue a motorcycle endorsement instruction permit. The permit entitles the applicant, while having the permit in his immediate possession and while riding under the direct supervision of any person eighteen (18) years or older who possesses a valid driver's license, and after September 1, 1998, who also possesses a motorcycle endorsement, to operate a motorcycle upon the highways for a period not to exceed one hundred eighty (180) days. If the permittee passes the skills test for a motorcycle endorsement within one hundred eighty (180) days of issuance of the motorcycle endorsement instruction permit, he shall not be required to pay the motorcycle endorsement fee. "Direct supervision" means that any person eighteen (18) years of age or older who possesses a valid driver's license, and after September 1, 1998, who also possesses a motorcycle endorsement, is within two hundred (200) feet of the permittee at all times during the permittee's operation of a motorcycle. A person holding a motorcycle instruction permit shall not carry any passenger while operating a motorcycle, shall not operate a motorcycle except during the hours of daylight only and shall not operate a motorcycle upon any interstate highway system.

A violation of the conditions of a motorcycle endorsement instruction permit is a misdemeanor. The department shall cancel the permit whether or not such violation results in conviction of the misdemeanor.

SECTION 5. That Section 49-310, Idaho Code, be, and the same is hereby amended to read as follows:

49-310. APPLICATIONS OF PERSONS UNDER THE AGE OF EIGHTEEN YEARS. (1) The application of any person under the age of eighteen (18) years for an instruction permit, restricted driver's license or driver's license shall be signed and verified before a person authorized to administer oaths by either the father or mother of the applicant, if both are living and have custody of him; or if either be dead, then by the surviving parent who has custody of him; or by the Idaho resident host of a foreign exchange student, or in the event neither parent is living, or if living and does not have the custody of the applicant, then by the person or guardian having such custody or by an employer of the applicant. In the event there is no guardian or employer then some other responsible person willing to assume the obligation for the applicant may sign the application. Any person who signs the applicant's application shall attest that the applicant is in compliance with the school attendance provisions of section 49-303A, Idaho Code. The person willing to assume responsibility for the applicant must be at least eighteen (18) years of age.

(2) Any negligence or wilful misconduct of a person under the age

of eighteen (18) years when operating a motor vehicle upon a highway shall be imputed to the person who signed the application of that person for a permit or driver's license, and that person shall be jointly and severally liable with the permit or driver's license holder for any damage caused by negligence or wilful misconduct, except as otherwise provided by law.

(3) In the event a permit or driver's license holder under the age of eighteen (18) years deposits, or there is deposited upon his behalf, proof of financial responsibility in respect to the operation of any motor vehicle, in form and in amounts as required under the motor vehicle financial responsibility laws of this state, or by the director if the form and amount is not fixed by law, then the department may accept the application when signed by one (1) parent or guardian of the applicant, and while that proof is maintained the parent or guardian shall not be subject to the liability imposed under subsection (2) of this section.

(4) Any person who has signed the application of a minor for a permit or driver's license shall be liable civilly for the payment of any court penalty imposed because the minor has been found to have committed an infraction violation. The provisions of this section shall not apply or create any civil liability for the person signing the application in connection with any pedestrian or bicycle infraction, and provided this subsection shall not apply to any civil action where the plaintiff is other than the state of Idaho.

SECTION 6. 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 33-211, Idaho Code, and to read as follows:

33-211. STUDENTS' DRIVER'S LICENSES. The board of trustees of a school district and all employees of the school district are authorized to and shall administer the school district's portion of section 49-303A, Idaho Code, relating to driver's licenses and school attendance.

Law Without Signature.

CHAPTER 349
(H.B. No. 521)

AN ACT

RELATING TO LIQUOR LICENSES; AMENDING SECTION 23-903, IDAHO CODE, TO ALLOW THE ISSUANCE OF A LIQUOR LICENSE TO THE OWNER, OPERATOR, OR LESSEE OF A GOLF COURSE ON LAND ALSO OPERATED AS A WINERY; AMENDING SECTION 23-910, IDAHO CODE, TO ALLOW FOR ISSUANCES OF LIQUOR LICENSES TO OFFICERS, AGENTS, OR EMPLOYEES OF WINERIES OPERATING GOLF COURSES ON THE SAME PREMISES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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 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, <u>or located on premises also operated as a winery,</u> 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 airport 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.

Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a winery also operating a golf course on the premises.

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.

SECTION 2. That Section 23-910, Idaho Code, be, and the same is hereby amended to read as follows:

23-910. PERSONS NOT QUALIFIED TO BE LICENSED. No license shall be issued to:

(1) Any person, or any one (1) of its members, officers, or governing board, who has, within three (3) years prior to the date of making application, been convicted of any violation of the laws of the United States, the state of Idaho, or any other state of the United States, or of the resolutions or ordinances of any county or city of this state, relating to the importation, transportation, manufacture or sale of alcoholic liquor or beer; or who has been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment or completed any sentence of confinement for any felony within five (5) years prior to the date of making application for any license.

(2) A person who is engaged in the operation, or interested therein, of any house or place for the purpose of prostitution or who has been convicted of any crime or misdemeanor opposed to decency and morality.

(3) A person whose license issued under this act has been

revoked; an individual who was a member of a partnership or association which was a licensee under this act and whose license has been revoked; an individual who was an officer, member of the governing board or one (1) of the ten (10) principal stockholders of a corporation which was a licensee under this act and whose license has been revoked; a partnership or association one (1) of whose members was a licensee under this act and whose license was revoked; a corporation one (1) of whose officers, member of the governing board or ten (10) principal stockholders was a licensee under the provisions of this act and whose license has been revoked; an association or partnership, one (1) of whose members was a member of a partnership or association licensed under the provisions of this act and whose license has been revoked; a partnership or association, one (1) of whose members was an officer, a member of the governing board, or one (1) of the ten (10) principal stockholders of a corporation licensed under the provisions of this act and whose license has been revoked; a corporation, one (1) of whose officers, member of the governing board, or ten (10) principal stockholders was a member of a partnership or association licensed under the provisions of this act and whose license was revoked; a corporation, one (1) of whose officers, member of the governing board, or ten (10) principal stockholders was an officer, member of the governing board, or one (1) of the ten (10) principal stockholders of a corporation licensed under the provisions of this act and whose license was revoked.

(4) Any officer, agent, or employee of any distillery, winery, brewery, or any wholesaler, or jobber, of liquor or malt beverages. This prohibition shall not apply to officers, agents, or employees of any winery operating a golf course on the same premises as the winery.

(5) A person who does not hold a retail beer license issued under the laws of the state of Idaho.

(6) Any license, held by any licensee disqualified under the provisions of this section from being issued a license, shall forthwith be revoked by the director.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 1996.

Law Without Signature.

CHAPTER 350
(S.B. No. 1571)

AN ACT

APPROPRIATING MONEYS TO THE REGULATORY BOARDS FOR FISCAL YEAR 1997; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDITIONAL MONEYS FOR FISCAL YEAR 1996; AND DECLARING AN EMERGENCY FOR SECTION 3 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the 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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. STATE ATHLETIC COMMISSION:					
FROM:					
State Regulatory Fund	$ 2,800	$ 15,000			$ 17,800
B. BOARD OF PHARMACY:					
FROM:					
State Regulatory Fund	$ 355,900	$ 132,800	$ 26,400		$ 515,100
C. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory Fund	$ 193,300	$ 192,800	$ 7,300		$ 393,400
D. BOARD OF DENTISTRY:					
FROM:					
State Regulatory Fund	$ 109,700	$ 73,200	$ 1,500		$ 184,400
E. BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS:					
FROM:					
State Regulatory Fund	$ 150,700	$ 116,700	$ 7,700		$ 275,100
F. BOARD OF MEDICINE:					
FROM:					
State Regulatory Fund	$ 313,900	$ 280,200	$ 3,100		$ 597,200
G. BOARD OF NURSING:					
FROM:					
State Regulatory Fund	$ 274,300	$ 168,800	$ 46,000		$ 489,100
H. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory Fund	$ 502,000	$ 423,200	$ 21,000	$ 50,000	$ 996,200
I. PUBLIC WORKS CONTRACTORS STATE LICENSE BOARD:					
FROM:					
State Regulatory Fund	$ 197,700	$ 89,800	$ 22,000		$ 309,500
J. IDAHO REAL ESTATE COMMISSION:					
FROM:					
State Regulatory Fund	$ 602,400	$ 272,500	$ 58,600		$ 933,500
K. PROFESSIONAL GEOLOGISTS BOARD:					
FROM:					
State Regulatory Fund	$ 23,700	$ 16,400			$ 40,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
L. BOARD OF OPTOMETRY:					
FROM:					
State Regulatory Fund	$ 2,500	$ 13,400			$ 15,900
M. IDAHO CERTIFIED SHORTHAND REPORTERS BOARD:					
FROM:					
State Regulatory Fund	$ 9,600	$ 11,800	$ 1,000		$ 22,400
N. OUTFITTERS AND GUIDES BOARD:					
FROM:					
State Regulatory Fund	$ 192,100	$ 172,600	$ 5,700		$ 370,400
O. BOARD OF VETERINARY MEDICINE:					
FROM:					
State Regulatory Fund	$ 56,600	$ 88,200			$ 144,800
P. COMMISSION ON HISPANIC AFFAIRS:					
FROM:					
General Fund	$ 72,900	$ 30,000	$ 3,400		$ 106,300
Federal Fund	51,100	47,500		$15,000	113,600
Miscellaneous Revenue Fund	69,800	86,200			156,000
TOTAL	$ 193,800	$ 163,700	$ 3,400	$15,000	$ 375,900
GRAND TOTAL	$3,181,000	$2,231,100	$203,700	$65,000	$5,680,800

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, 1996, through June 30, 1997, 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 ..... Sixty-two one hundredths (.62)

Board of Optometry ..... Zero (0)
Idaho Certified Shorthand Reporters
Board ..... Twenty-five one hundredths (.25)
Outfitters and Guides Board ..... Four (4)
Board of Veterinary Medicine ..... One (1)
Commission on Hispanic Affairs ..... Four (4)

SECTION 3. In addition to the appropriation made in Section 1, Chapter 299, Laws of 1995, there is hereby appropriated to the Board of Professional Geologists the following amount to be expended according to the designated standard classification from the listed fund for the period July 1, 1995, through June 30, 1996:

FOR:	
Personnel Costs	$500
FROM:	
State Regulatory Fund	$500

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 3 of this act shall be in full force and effect on and after its passage and approval.

Law Without Signature.

CHAPTER 351
(H.B. No. 764)

AN ACT

RELATING TO STATE PARKS; AMENDING SECTION 67-4209, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION, AND TO PROVIDE THAT THE BOARD OF THE DEPARTMENT OF PARKS AND RECREATION IS AUTHORIZED TO ENTER INTO AN AGREEMENT WITH THE FEDERAL GOVERNMENT FOR THE DEVELOPMENT AND ADMINISTRATION OF RECREATIONAL RESOURCES OR FACILITIES LOCATED UPON LANDS OF THE UNITED STATES WHICH ARE ADJACENT TO OR WHICH RESOURCES OR FACILITIES MAY BE USED IN CONNECTION WITH THE WATERS OF CASCADE RESERVOIR, LOCATED IN VALLEY COUNTY.

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

SECTION 1. That Section 67-4209, Idaho Code, be, and the same is hereby amended to read as follows:

67-4209. AGREEMENT WITH UNITED STATES AUTHORIZED TO OPERATE LANDS ADJACENT TO WALCOTT LAKE AND AMERICAN FALLS RESERVOIR AND CASCADE RESERVOIR AS RECREATIONAL AREAS. The park and recreation board of the department of parks and recreation, hereinafter referred to as the board, acting for and in behalf of the people of the state of Idaho, is hereby authorized to enter into any agreement with the United States or with any of its departments, bureaus, or other agencies, which agreement shall provide for the development and administration of recreational resources or facilities located or to be located, upon lands owned by the United States and which are adjacent to, or which

resources or facilities may be used in connection with the waters of, those certain bodies of water known as Walcott Lake, located in Power, Cassia, Minidoka and Blaine Counties, ~~and~~ American Falls Reservoir, located in Power, Bingham and Bannock Counties, and Cascade Reservoir, located in Valley County. Any such agreement shall expressly recognize that the authority to be assumed by the board shall be exercised with due and proper regard for the primary purposes and uses for which such lands and waters are operated and maintained by the United States or others, and with due regard for the right of ingress and egress over said lands for watering livestock in said lake and reservoir.

Approved March 20, 1996.

CHAPTER 352
(H.B. No. 712)

AN ACT

RELATING TO DEPUTY PROSECUTING ATTORNEYS; AMENDING SECTION 31-2602, IDAHO CODE, TO PROVIDE THAT THE RESIDENCY REQUIREMENT FOR A PROSECUTING ATTORNEY SHALL NOT APPLY TO A DEPUTY PROSECUTING ATTORNEY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-2602, Idaho Code, be, and the same is hereby amended to read as follows:

31-2602. DEPUTY PROSECUTING ATTORNEYS -- APPOINTMENT, SALARY, AND QUALIFICATIONS. Each prosecuting attorney may be empowered by the board of county commissioners of his county to appoint deputy prosecuting attorneys upon a finding by such board of county commissioners that such appointments are necessary for the proper conduct of his office. The deputy prosecuting attorneys shall receive a salary to be fixed by the board of county commissioners of his county. The salary of any deputy prosecuting attorney shall be paid monthly from the county treasury on warrants of the county auditor on being allowed and audited by the board of county commissioners, as other claims against the county. Every deputy prosecuting attorney must possess the qualifications required of prosecuting attorneys, except that of county residency.

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, 1996.

CHAPTER 353
(H.B. No. 671)

AN ACT

RELATING TO REGIONAL PUBLIC TRANSPORTATION AUTHORITY; AMENDING SECTION 40-2103, IDAHO CODE, TO REDEFINE "PUBLIC TRANSPORTATION SERVICE" AND TO REDEFINE "REGION"; AMENDING SECTION 40-2104, IDAHO CODE, TO CLARIFY THE PURPOSE OF AN AUTHORITY; AMENDING SECTION 40-2105, IDAHO CODE, TO PROVIDE FOR CREATION OF COUNTY-WIDE AND REGIONAL AUTHORITIES; AMENDING SECTION 40-2106, IDAHO CODE, TO PROVIDE FOR ELECTION AND COMPOSITION OF THE GOVERNING BOARD OF AN AUTHORITY; AMENDING SECTION 40-2107, IDAHO CODE, TO CLARIFY BOARD PROCEDURES WITH RESPECT TO REGIONAL AUTHORITIES; AMENDING SECTIONS 40-2109, 40-2110 AND 40-2112, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 40-2103, Idaho Code, be, and the same is hereby amended to read as follows:

40-2103. DEFINITIONS. (1) "Authority" means the regional public transportation authority.

(2) "Board" means the governing body of the regional public transportation authority.

(3) "City" means an incorporated city.

(4) "Commission" means the board of county commissioners or the board of commissioners of a single county-wide highway district.

(5) "Public transportation service" means, without limitation, fixed transit routes; scheduled or unscheduled transit service provided by motor vehicle, bus, rail, van, aerial tramway and other modes of public conveyance; paratransit service for the elderly and ~~transportation-disadvantaged~~ disabled; shuttle and commuter service between cities, counties, health care facilities, employment centers, educational institutions or park-and-ride locations; subscription van and car-pooling service; and transportation services unique to social service programs.

(6) "Region" means the geographical area encompassed by an authority which may include all of a county or contiguous parts of one (1) or more counties.

SECTION 2. That Section 40-2104, Idaho Code, be, and the same is hereby amended to read as follows:

40-2104. PURPOSE OF AUTHORITY. The purpose of an authority created pursuant to this chapter is to establish a single governmental agency oriented entirely toward public transportation needs within each county or region that deems such an agency necessary. ~~The purposes of such an agency are to~~ This authority is under the supervision of and directly responsible to local governments, and shall provide public transportation services, encourage private transportation programs and coordinate both public and private transportation programs, services and support functions.

SECTION 3. That Section 40-2105, Idaho Code, be, and the same is hereby amended to read as follows:

40-2105. CREATION OF AUTHORITY -- VOTER APPROVAL -- NAME. Authorities may be established in one (1) of the following ways:

(1) (a) ~~In any county for which a public transportation plan has been adopted in full or partial compliance with the intermodal surface transportation efficiency act (23 U.S.C. App. 1001-9511),~~ a County-wide authorities. A city or commission by resolution may call for an election to establish a regional public transportation authority in the county to carry out the purposes of this chapter. The entire geographical area of the county must be included within the jurisdiction of ~~the~~ an authority created pursuant to this subsection.

(b) The ballot question shall seek voter approval of the establishment of the authority.

(2) (a) Regional authorities. A city or commission may adopt a resolution proposing to establish an authority which contains contiguous parts of one (1) or more counties. The resolutions shall include a legal description of a contiguous region encompassed by the proposed authority and specifically name each city and county wholly or partially included therein. Boundaries of the proposed authority shall conform insofar as possible to existing boundaries dividing voting precincts.

(b) A certified copy of the resolution shall be transmitted by registered mail to the chief elected official of each city and county wholly or partially included in the proposed region.

(c) Each city and county shall, by resolution, either approve without alteration or reject the resolution proposing the establishment of an authority and transmit a certified copy to the clerk or recorder of the initiating city or commission. If a city or county fails to act upon the resolution proposing the establishment of an authority within sixty (60) days after receipt of the certified copy, the city or county is deemed to have rejected the resolution.

(d) If the city councils and county commissions of all cities and counties wholly or partially included in the proposed region approve the resolution proposing the establishment of an authority, the question shall be submitted for voter approval. The ballot question shall generally describe the area which is proposed to be included in the authority, identify each city and county which will be located either wholly or partially within the authority and shall seek voter approval of the establishment of the authority.

(~~2~~3) Authorization to establish a regional public transportation authority may be made only by the registered voters of the region at ~~a general election~~ an election held at least sixty (60) days after the final resolution is adopted and in conformity with section 34-106, Idaho Code. A simple majority of votes cast on the question shall be necessary to establish the authority.

(~~3~~4) An authority created pursuant to this act shall be named the "..... ~~COUNTY~~ (name of authority) REGIONAL PUBLIC TRANSPORTATION AUTHORITY." In the event two (2) or more authorities should by cooper-

ative agreement merge their services the name may be appropriately changed by a majority vote of the board of each authority.

SECTION 4. That Section 40-2106, Idaho Code, be, and the same is hereby amended to read as follows:

40-2106. AUTHORITY BOARD. (1) Each authority shall have a governing board ~~selected~~ appointed by and serving at the pleasure of the governing bodies of ~~the county and~~ counties, incorporated cities and highway districts located wholly or partially within the authority.

(2) The board initially shall be composed of not less than five (5) members selected as follows: two (2) members representing ~~the~~ each board of county commissioners; one (1) member representing highway district commissions wholly or partially contained within the ~~county~~ region; two (2) members representing each city with a population of ~~fifty~~ twenty-five thousand (~~50~~25,000) or more; and one (1) member representing each city with a population of less than ~~fifty~~ twenty-five thousand (~~50~~25,000). Board composition subsequently may be modified pursuant to subsection (7) of this section.

(3) Board members shall be appointed by resolution of the appointing agency and shall serve at the pleasure of the appointing agency. Board members may be elected officials of the appointing agency or they may be representatives empowered by the agency to act in its best interests. The highway district board member shall be appointed by the board of commissioners of the highway district in counties with a single county-wide highway district or, in counties with more than one (1) highway district, by the board of county commissioners in consultation with all highway district commissions ~~in the county~~ wholly or partially contained within the region.

(4) Ex officio members may be appointed to the authority board by any city or commission or by the board itself and shall serve at the pleasure of the appointing entity.

(5) Board members may be compensated forty dollars ($40.00) for each day in the actual performance of duties, but the total amount to be received as compensation shall not exceed the sum of one thousand dollars ($1,000) per year. Actual expenses shall be paid in addition to compensation. The payment for expenses shall be paid from funds of the authority upon presentation of itemized vouchers, signed by the board member and under oath made to the secretary of the authority.

(~~5~~6) ~~Board members are considered employees of the authority.~~ The authority shall be liable and responsible for the actions of the board members and employees of the authority when the board members and employees are performing their duties on behalf of the authority.

(7) Composition of the board may be modified from time to time by the board, provided that:

(a) The board adopts by majority vote at a regularly scheduled meeting a statement of intent to revise the board composition and a complete description of the proposed revision; and

(b) The board submits the statement of intent and proposed revision to the chief elected official of each city and commission within the authority for review and comment; and

(c) Each city or commission is provided a minimum of sixty (60) days in which to comment; and

(d) The board adopts a resolution revising the board composition by the affirmative vote of two-thirds (2/3) of all board members at a regularly scheduled meeting.

SECTION 5. That Section 40-2107, Idaho Code, be, and the same is hereby amended to read as follows:

40-2107. BOARD PROCEDURES. (1) At its first meeting following the appointment of all members, the board shall elect a chairman and a vice chairman from their number and appoint a secretary and a treasurer who need not be from their number for terms fixed by them. The offices of the secretary and treasurer may be filled by the same person. Certified copies of all appointments under the hand of the chairman and seal of the authority shall be filed with the clerk of ~~the~~ each county and with the clerk of each city ~~within the county~~ and with the secretary of each highway district in the ~~county~~ region.

(2) A majority of the board members constitutes a quorum for the conduct of business. A majority of board members present at a board meeting at which a quorum has been established may exercise all of the powers of the full board except as otherwise provided in this chapter.

(3) As soon as practicable after organization the board shall designate a day, hour and place at which regular meetings shall be held. Minutes of all meetings must show what business was conducted, what votes were taken and what bills were submitted, considered, allowed or rejected. The secretary shall make a list of all bills presented, showing to whom payable, for what services or materials, the amount claimed and the amount allowed. The list shall be signed by the chairman and attested by the secretary.

(4) All meetings of the board shall be public and all records of the authority shall be open to the inspection of the public during normal business hours. Special meetings of the board may be held upon the call of the board chairman or a majority of the board. The secretary must give each member not joining in the order five (5) days' notice of any special meeting.

(5) The authority treasurer shall execute and file with the authority secretary an official bond in an amount of money equal to an amount that may come into his hands as treasurer but in no case shall the amount of the bond be less than an amount fixed by the board. The cost of such bond shall be a necessary expense paid by the authority.

SECTION 6. That Section 40-2109, Idaho Code, be, and the same is hereby amended to read as follows:

40-2109. POWERS AND DUTIES OF BOARD. (1) Only one (1) regional public transportation authority shall ~~be created~~ exist within a county and when established pursuant to this chapter the authority will have exclusive jurisdiction over all publicly funded or publicly subsidized transportation services and programs except those transportation services and programs under the jurisdiction of public school districts and law enforcement agencies.

(2) The authority may provide public transportation services on fixed or unfixed routes; public transportation services on fixed or unfixed schedules; paratransit services for the elderly and ~~physically~~

~~impaired~~ people with disabilities as defined in the Americans with disabilities act; special services to accommodate community celebrations, sporting events and entertainment open to the public; public transportation services between cities, rural areas, park-and-ride facilities, employment centers, health care facilities, universities and commercial and shopping areas; commuter services between communities; van or car pool programs.

(3) The authority shall fix by resolution the fares and fees to be charged those who use its public transportation services. Prior to adopting any such resolution, the board shall publish proposed fares and fees in at least one (1) issue of a newspaper having general circulation in the ~~authority~~ region and shall hold at least one (1) public hearing on the proposed fares and fees.

(4) The authority may establish, fund, control and operate the administrative, equipment maintenance, servicing, storage, fueling, and other facilities required to support a safe and efficient public transportation system. In carrying out the purposes of this chapter, the authority may employ personnel, contract for services with public and private agencies and retain legal and other professional counsel.

(5) The board may adopt resolutions consistent with law, as necessary, for carrying out the purposes of this chapter and discharging all powers and duties conferred to the authority pursuant to this chapter.

(6) The authority shall have an annual audit made of the financial affairs of the authority as required in section 67-450B, Idaho Code, by the first day of December following the close of the fiscal year.

(7) The authority may enter into cooperative agreements with the state, other authorities, counties, cities and highway districts under the provisions of section 67-2328, Idaho Code.

SECTION 7. That Section 40-2110, Idaho Code, be, and the same is hereby amended to read as follows:

40-2110. CONTRIBUTIONS. The ~~county~~ counties, cities, highway districts and other governmental entities within the ~~county~~ region may, at their discretion, enter into a cooperative agreement with the authority in order to contribute funds from any source, provide services-in-kind and loan or convey real and personal property to the authority in recognition of costs of the authority, to maintain continuity of existing public transportation services, or to implement new services.

SECTION 8. That Section 40-2112, Idaho Code, be, and the same is hereby amended to read as follows:

40-2112. BUDGET. (1) The board shall annually adopt a budget and cause a public hearing to be held upon the budget.

(2) Notice of the budget hearing shall be posted at least ten (10) days prior to the date of the meeting in at least one (1) conspicuous place in ~~the~~ each county, ~~and each~~ city and highway district within the ~~county~~ region. A copy of the notice shall also be published in accordance with the provisions of section 40-206, Idaho Code. The

place, hour and day of the hearing shall be specified in the notice, as well as the place where the budget may be examined prior to the hearing. A full and complete copy of the proposed budget shall be published with and as a part of the publication of the notice of hearing.

(3) The budget shall be available for public inspection from and after the date of the posting of notice of hearing at a place and during business hours as the board may direct.

(4) A quorum of the board shall attend the hearing and explain the proposed budget and hear any and all objections to it.

(5) The budget shall be completed and finalized not later than the Tuesday following the first Monday in September for the ensuing fiscal year.

(6) The fiscal year of the authority shall commence on the first day of October of each year.

Approved March 20, 1996.

CHAPTER 354
(H.B. No. 868)

AN ACT

RELATING TO CORPORATIONS; AMENDING TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 5, TITLE 30, IDAHO CODE, PROVIDING THAT A CORPORATION ACKNOWLEDGES AND ACCEPTS THE CONSTITUTION OF THE STATE OF IDAHO.

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

SECTION 1. That Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 5, Title 30, Idaho Code, and to read as follows:

CHAPTER 5
CORPORATIONS

30-501. CORPORATIONS -- CONSTITUTION OF THE STATE OF IDAHO. Every corporation organized for any lawful purpose or purposes, whether a general business corporation or a designated class of corporation, shall, by the act of filing incorporation documents with the state of Idaho, acknowledge and accept the provisions of the constitution of the state of Idaho as binding upon that corporation.

Approved March 20, 1996.

CHAPTER 355
(H.B. No. 870)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 1997; APPRO-

PRIATING MONEYS FROM THE GENERAL FUND TO THE GUARDIAN AD LITEM FUND; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES.

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

SECTION 1. There is hereby appropriated to the Supreme Court, the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. SUPREME COURT:					
FROM:					
General Fund	$ 2,288,600	$ 380,600	$ 87,800	$ 52,500	$ 2,809,500
Miscellaneous Revenue Fund		215,800			215,800
TOTAL	$ 2,288,600	$ 596,400	$ 87,800	$ 52,500	$ 3,025,300
B. LAW LIBRARY:					
FROM:					
General Fund	$ 298,300	$ 207,600	$ 57,700		$ 563,600
Miscellaneous Revenue Fund		23,000	173,500		196,500
TOTAL	$ 298,300	$ 230,600	$231,200		$ 760,100
C. DISTRICT COURTS:					
FROM:					
General Fund	$ 6,274,600	$ 764,300	$423,900		$ 7,462,800
D. MAGISTRATES DIVISION:					
FROM:					
General Fund	$ 6,993,300	$ 267,900			$ 7,261,200
E. JUDICIAL COUNCIL:					
FROM:					
General Fund	$ 2,000	$ 102,300			$ 104,300
F. COURT OF APPEALS:					
FROM:					
General Fund	$ 768,200	$ 99,000	$ 22,400		$ 889,600
G. GUARDIAN AD LITEM:					
FROM:					
Guardian Ad Litem Fund				$408,400	$ 408,400
GRAND TOTAL	$16,625,000	$2,060,500	$765,300	$460,900	$19,911,700

SECTION 2. There is hereby appropriated from the General Fund to be transferred to the Guardian Ad Litem Fund the sum of $400,000.

SECTION 3. It is legislative intent that of the amount appropriated in Section 1 of this act, an amount not to exceed $5,000 may be used at the discretion of the Chief Justice, to assist in defraying expenses relating to or resulting from the discharge of the Supreme Court Justices' official duties and the official duties of the Supreme

Court. Further, it is legislative intent that an amount, not to exceed $1,500 of the amount appropriated in Section 1 of this act, may be used at the discretion of the Chief Judge of the Court of Appeals to assist in defraying expenses relating to or resulting from the discharge of the Court of Appeals Judges' official duties and the official duties of the Court of Appeals. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved March 20, 1996.

CHAPTER 356
(H.B. No. 871)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 324, LAWS OF 1995; APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 99, LAWS OF 1996; AUTHORIZING AN INCREASE IN THE LIMIT ON THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1 OF SENATE BILL NO. 1548, SECOND REGULAR SESSION, FIFTY-THIRD IDAHO LEGISLATURE; AND DECLARING AN EMERGENCY FOR SECTION 1 OF THIS ACT.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 324, Laws of 1995, there is hereby appropriated to the Idaho Transportation Department, the following amount, to be expended for the Contract Construction Program in conformance with Section 40-701A, Idaho Code, according to the designated expense class from the listed fund for the period from the effective date of this section, through June 30, 1997:

FOR:	
Capital Outlay	$6,000,000
FROM:	
State Highway Fund	$6,000,000

SECTION 2. In addition to the appropriation made in Section 1, Chapter 99, Laws of 1996, there is hereby appropriated to the Idaho Transportation Department, the following amount, to be expended for the designated programs according to the designated standard classifications from the listed fund for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. HIGHWAY OPERATIONS:				
FROM:				
State Highway Fund		$706,500		$ 706,500
B. CONTRACT CONSTRUCTION:				
FROM:				
State Highway Fund			$11,068,500	$11,068,500
C. MOTOR VEHICLE SERVICES:				
FROM:				
State Highway Fund	$23,000	$ 58,000		$ 81,000
TOTAL	$23,000	$764,500	$11,068,500	$11,856,000

SECTION 3. In addition to the full-time equivalent positions authorized in Section 3, Chapter 99, Laws of 1996, the Idaho Transportation Department is authorized an additional two (2) full-time equivalent positions and no more than one thousand eight hundred thirteen (1,813) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997.

SECTION 4. In addition to the appropriation made in Section 1, Senate Bill No. 1548, Second Regular Session, Fifty-third Idaho Legislature, there is hereby appropriated to the Department of Parks and Recreation, the following amount, to be expended for the designated programs according to the designated standard classifications from the listed fund for the period July 1, 1996, through June 30, 1997:

	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. PARK DEVELOPMENT:			
FROM:			
Recreational Fuels Fund	$364,400		$364,400
B. RECREATION RESOURCES:			
FROM:			
Recreational Fuels Fund		$230,600	$230,600
TOTAL	$364,400	$230,600	$595,000

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after its passage and approval.

Approved March 20, 1996.

CHAPTER 357
(H.B. No. 423, As Amended)

AN ACT

RELATING TO ENGINEERS AND LAND SURVEYORS; AMENDING SECTION 54-1201, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO CLARIFY THAT

ONLY THOSE ENGINEERS REGISTERED AS PROFESSIONAL ENGINEERS MAY OFFER THEIR SERVICES TO THE PUBLIC; AMENDING SECTION 54-1202, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO CLARIFY DEFINITIONS AND TO DEFINE PUBLIC; AMENDING SECTION 54-1203, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO CLARIFY THE TERM OF MEMBERS OF THE BOARD AND TO CLARIFY THE APPOINTMENT OF EMERITUS MEMBERS; AMENDING SECTION 54-1204, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO CLARIFY THE QUALIFICATIONS OF MEMBERS OF THE BOARD; AMENDING SECTION 54-1207, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 54-1209, IDAHO CODE, TO FURTHER SPECIFY DUTIES AND COMPENSATION OF THE EXECUTIVE SECRETARY; AMENDING SECTION 54-1210, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR REGISTRATION; AMENDING SECTION 54-1211, IDAHO CODE, TO GOVERN DISTRIBUTION OF THE ROSTER OF REGISTRANTS; AMENDING SECTION 54-1212, IDAHO CODE, TO MODIFY EDUCATION REQUIREMENTS FOR LICENSURE OR CERTIFICATION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 54-1213, IDAHO CODE, TO SPECIFY APPLICATION REQUIREMENTS; AMENDING SECTION 54-1214, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 54-1215, IDAHO CODE, TO PROVIDE THE TYPE AND DESIGN OF ACCEPTABLE SEALS, TO ELIMINATE STAMPING PLANS PREPARED BY AN OUT-OF-STATE REGISTRANT, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1216, IDAHO CODE, TO GOVERN VALIDITY OF WORK PERFORMED UNDER AN EXPIRED REGISTRATION OR CERTIFICATE AND TO PROVIDE PROPER NOMENCLATURE; REPEALING SECTION 54-1217, IDAHO CODE; AMENDING SECTION 54-1219, IDAHO CODE, TO CLARIFY THE CREDENTIALS NECESSARY FOR ISSUANCE OF A CERTIFICATE OF REGISTRATION BY COMITY AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 54-1220, IDAHO CODE, TO CLARIFY PROCEDURES GOVERNING DISCIPLINARY ACTIONS AND TO CLARIFY AUTHORITY OF THE BOARD; AMENDING SECTION 54-1223, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO GOVERN EXEMPTIONS FROM REGISTRATION AND TO PROVIDE APPLICATION OF EDUCATION AND EXPERIENCE REQUIREMENTS ADOPTED BY THIS ACT; AMENDING CHAPTER 12, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1224, IDAHO CODE, TO PROVIDE FOR TEMPORARY PERMITS FOR PROFESSIONAL ENGINEERS; AMENDING SECTION 54-1227, IDAHO CODE, TO CLARIFY APPLICATION OF THE REQUIREMENTS; AMENDING SECTION 54-1229, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AND AMENDING SECTION 54-1235, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE.

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

SECTION 1. That Section 54-1201, Idaho Code, be, and the same is hereby amended to read as follows:

54-1201. DECLARATION OF POLICY. To safeguard life, health and property, every person practicing or offering to practice professional engineering or professional land surveying, as herein defined, shall submit evidence of his qualifications and be registered as hereinafter provided; and it shall be unlawful for any person to practice or offer to practice professional engineering or professional land surveying in this state, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a registered or licensed <u>professional</u> engineer

or professional land surveyor, unless such person has been duly registered or is exempted under the provisions of this ~~act~~ chapter. Except as exempted by section 54-1223, Idaho Code, an engineer shall be allowed to practice professional engineering as defined in this chapter only when he has become duly registered or licensed as a professional engineer by the board under this chapter. The practice of professional engineering or professional land surveying shall be deemed a privilege granted by the Idaho board of registration of professional engineers and professional land surveyors through the board, based on qualifications of the individuals as evidenced by the person's certificate of registration, which shall not be transferable.

SECTION 2. That Section 54-1202, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

(d) Consulting Engineer. The term "consulting engineer~~,~~" ~~as used in this act, shall~~ means a professional engineer whose principal occupation is the independent practice of professional engineering; whose

livelihood is obtained by offering engineering services to the public; who serves clients as an independent fiduciary; who is devoid of public, commercial and product affiliation that might tend to infer a conflict of interest; and who is cognizant of his public and legal responsibilities, and is capable of discharging them.

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

(f) Professional Land Surveying and Practice of Professional Land Surveying. The terms "land surveying" ~~includes~~ and "professional land surveying" mean responsible ~~supervision~~ charge of surveying of ~~areas for-their~~ land to determine the correct ~~determination--and~~ boundary descriptions, ~~and--for--conveyancing,--or--for--the~~ to convey, to establish~~ment~~ or reestablish~~ment-of~~ land boundaries, ~~and-the--plotting of~~ or to plat lands and subdivisions thereof. Any person shall be construed to practice or offer to practice professional land surveying ~~within-the-meaning-and-intent-of-this-act~~ who engages in professional land surveying, or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional land surveyor, or who represents himself as able to perform or who does perform any professional land surveying service or work or any other service designated by the practitioner which is ~~recognized as~~ professional land surveying.

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

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

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

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

(k) Rules of Professional Responsibility. The term "rules of professional responsibility" ~~for--professional--engineers,--professional land--surveyors-and-corporations-with-certificates-of-authorization-as used-in-this-act,-shall~~ means those rules, if any, promulgated by the board, as authorized by the Idaho Code.

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

SECTION 3. That Section 54-1203, Idaho Code, be, and the same is

hereby amended to read as follows:

54-1203. IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS. A board to be known as the "Idaho board of registration of professional engineers and professional land surveyors" is a division of the Idaho department of self-governing agencies and shall administer the provisions of this ~~act~~ chapter. It shall consist of five (5) persons duly registered as provided by this chapter, appointed by the governor from among nominees recommended by any organized and generally recognized state engineering society in this state for the professional engineer members or any organized and generally recognized state land surveying society in this state for the professional land surveyor member. The board shall be comprised of four (4) persons registered as professional engineers and one (1) person registered as a professional land surveyor. The members of the board shall have the qualifications required by section 54-1204, Idaho Code. The members of the present board shall continue to serve for the balance of their respective terms of appointment. Each member of the board shall take, subscribe and file the oath required by chapter 4, title 59, Idaho Code, before entering upon the duties of the office. On the expiration of the term of any member, a successor shall be appointed in like manner by the governor for a term of five (5) years. Any appointment to complete a term that has not expired, because of resignation or inability of a member to serve for any reason, shall be for the unexpired portion of the term. A m~~M~~embers of the board shall hold office until the expiration of the term for which ~~they were~~ he was appointed and until ~~their~~ his successors ~~have~~ has been appointed and ~~have~~ qualified. A member after serving two (2) consecutive full terms in addition to any unexpired portion of a term, shall not be reappointed for a period of two (2) years. The board, on its own initiative, may appoint any former member as ~~an associate member, a special member, or~~ a member emeritus for special assignment to assist the board in the administration of this ~~act~~ chapter.

SECTION 4. That Section 54-1204, Idaho Code, be, and the same is hereby amended to read as follows:

54-1204. QUALIFICATION OF MEMBERS OF BOARD. Members of the board shall be citizens of the United States and residents of this state, and they shall have been engaged for at least twelve (12) years in the practice of engineering for the professional engineer members or land surveying for the professional land surveyor member, ~~as is appropriate, for at least twelve (12) years,~~ shall have been in responsible charge for at least five (5) years of important professional engineering or professional land surveying work, ~~as is appropriate, for at least five (5) years,~~ and shall be registered under the provisions of this ~~act as herein provided~~ chapter. Responsible charge of engineering or land surveying teaching may be construed as responsible charge of important professional engineering or professional land surveying work.

SECTION 5. That Section 54-1207, Idaho Code, be, and the same is hereby amended to read as follows:

54-1207. BOARD -- ORGANIZATION AND MEETINGS. The board shall hold at least one (1) regular meeting each year. The rules ~~and--regulations~~ of the board may provide for additional regular meetings and for special meetings. Notice of all meetings shall be given as may be provided in the rules ~~and-regulations~~. The board shall annually elect a chairman, a vice-chairman and a secretary, who shall be members of the board, and they may provide for an assistant or executive secretary who need not be a member of the board. Three (3) members shall constitute a quorum.

SECTION 6. That Section 54-1209, Idaho Code, be, and the same is hereby amended to read as follows:

54-1209. RECEIPTS AND DISBURSEMENTS. The secretary of the board, or assistants thereto as may be designated by the board, shall receive and account for all moneys derived under the provisions of this ~~act~~ chapter, and shall pay the same ~~monthly~~ to the state treasurer, who shall keep such moneys in a separate account to be known as the "professional engineers' and professional land surveyors' account." Such moneys shall be kept separate and apart from all other moneys in the treasury, and shall be paid out only on approval of the board. All moneys in the "professional engineers' and professional land surveyors' account" are hereby specifically appropriated for the use of the board. The secretary and executive secretary of the board shall be bonded to the state of Idaho in the time, form and manner prescribed in chapter 8, title 59, Idaho Code. The executive secretary of the board shall receive such salary as the board shall determine in addition to the ~~compensation-and~~ expenses provided for in section 54-1205, Idaho Code. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures from this fund for any purpose which, in the opinion of the board, is reasonably necessary for the proper performance of its duties under this ~~act~~ chapter, including the expenses of the board's delegates to annual conventions of, and membership dues to, the National Council of Examiners for Engineering and Surveying and any of its subdivisions. Under no circumstances shall the total amount of expenditures approved by the board in payment of the expenses and compensation provided for in this ~~act~~ chapter exceed the accumulated amount of the ~~examination,-registration-and-renewal~~ fees collected as herein provided. All warrants on said "professional engineers' and professional land surveyors' account" shall be drawn by the state controller on vouchers by the board and the state board of examiners.

SECTION 7. That Section 54-1210, Idaho Code, be, and the same is hereby amended to read as follows:

54-1210. RECORDS AND REPORTS. (1) The board shall keep a record of its proceedings and a register of all applications for registration, which register shall show: the name, ~~age~~ date of birth and last known address of each applicant; the date of the application; the place of business of such applicant; his education, experience and other qualifications; type of examination required; whether or not the applicant was rejected; whether or not a certificate of registration

was granted; the dates of the action of the board; and any other information as may be deemed necessary by the board.

(2) The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

(3) Annually the board shall submit to the governor a report of its transactions of the preceding year, and shall also transmit to him a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

(4) Board records and papers ~~of the following class~~ are subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 8. That Section 54-1211, Idaho Code, be, and the same is hereby amended to read as follows:

54-1211. ROSTER. A complete roster showing the names and last known addresses of all registered professional engineers, all registered professional land surveyors, all ~~corporations holding certificates of authorization~~ entities holding certificates of authorization as required under section 54-1235, Idaho Code, and all who possess current certification as engineers-in-training and as land surveyors-in-training ~~may~~ shall be published by ~~the secretary of~~ the board biennially. Copies of this roster shall be mailed to each person so registered or certified~~, who requests a copy,~~ and may be distributed or sold to the public upon request.

SECTION 9. That Section 54-1212, Idaho Code, be, and the same is hereby amended to read as follows:

54-1212. GENERAL REQUIREMENTS FOR EXAMINATION AND LICENSE. Except as herein otherwise expressly provided, no license as a professional engineer or professional land surveyor, or certification as an engineer-in-training or land surveyor-in-training, shall be issued until an applicant has successfully passed an examination given by or under the supervision of the board, nor shall a license as a professional engineer or professional land surveyor, or certification as an engineer-in-training or land surveyor-in-training, be issued to an applicant having habits or character that would justify revocation or suspension of certificate, as provided in section 54-1220, Idaho Code. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for assignment to an examination:

(1) As a professional engineer:

(a) Graduation from an approved engineering curriculum of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record of an additional four (4) years or more of progressive experience in engineering work of a grade and character satisfactory to the board, and indicating that the applicant is competent to practice professional engineering ~~(in counting years of~~

~~experience;-the-board;-at-its-discretion;-may-give-credit;-not--in excess--of--one-(1)-year;-for-satisfactory-graduate-study-in-engineering)~~; or

(b) Evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum, graduation with a bachelor degree in a related science from a school or college approved by the board, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record of eight (8) years or more of progressive experience in engineering work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice professional engineering.

(2) As a professional land surveyor:

(a) Graduation from ~~a-school-or-college-in~~ an approved ~~four--(4) year~~ surveying curriculum of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of land surveying acceptable to the board, and ~~in-addition,~~ a specific record of ~~at least~~ an additional four (4) years or more of combined office and field experience in land surveying work, ~~after-graduation,~~ with a minimum of two (2) years of progressive experience in ~~responsible charge--of~~ land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice professional land surveying; or

(b) ~~Two--(2)--years--of--approved-formal-education-in-a-school-or college-above-high-school-level-with-a~~At least sixty (60) semester hours~~;-or-the-equivalent;-passed~~ of education beyond high school, with a minimum of fifteen (15) credits in land surveying, engineering, mathematics or related science, passage of an examination on the fundamentals of land surveying acceptable to the board, and ~~in-addition,~~ a specific record of ~~at-least-six-(6)~~ an additional eight (8) years of combined office and field experience in land surveying work, with a minimum of two (2) years of progressive experience in ~~responsible-charge-of~~ land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying; or

(c) Evidence that the applicant possesses knowledge and skill, satisfactory to the board, similar to that attained upon completion of an approved college curriculum, passage of an examination on the fundamentals of land surveying acceptable to the board, and evidence of a specific record of at least eight (8) years of combined office and field experience in land surveying work with a minimum of three (3) years of progressive experience in responsible charge of surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying.

(3) As an engineer-in-training:

(a) Graduation from or in the last two (2) semesters of an approved engineering curriculum of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to enroll as an engineer-in-training; or

(b) Evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum, graduation with a bachelor degree in a related science from a school or college approved by the board, and a specific record of ~~four (4)~~ one (1) years or more of progressive experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to ~~enroll~~ be enrolled as an engineer-in-training.

(c) In the event the applicant qualifies for assignment to the examination during the last two (2) semesters of college under the provisions of section 54-1212(3)(a), Idaho Code, and a passing grade is attained, a certificate will be issued only ~~if a degree is obtained by~~ after the applicant graduates.

(4) As a land surveyor-in-training:

(a) Graduation from, ~~a college or school in~~ or in the last two (2) semesters of, an approved surveying curriculum or four (4) years or more in a school or college approved by the board as being of satisfactory standing and ~~evidence~~ indicating that the applicant is competent to be enrolled as a land surveyor-in-training; or

(b) ~~Has a~~At least ~~two (2) years of formal education in an approved school or college above high school level in an approved curriculum with at least~~ sixty (60) semester hours~~, or the equivalent, passed~~ of education beyond high school, with a minimum of fifteen (15) credits in land surveying, engineering, mathematics or related science, and in addition, a specific record of ~~at least~~ three (3) years or more of combined office and field experience in land surveying work of a character satisfactory to the board that the applicant is competent to be enrolled as a land surveyor-in-training; or

(c) Possesses knowledge and skill, satisfactory to the board, similar to that attained upon completion of an approved college curriculum and evidence of a specific record of at least four (4) years experience of combined office and field experience of a character satisfactory to the board that the applicant is competent to be enrolled as a land surveyor-in-training.

In counting years of experience for assignment to the professional engineer or professional land surveyor examination, the board may, at its discretion, give credit, not in excess of one (1) year, for satisfactory graduate study.

In considering the combined education and experience qualifications of applicants, the board shall consider engineering teaching, land surveying teaching, each year of satisfactory completion of undergraduate college education, advanced degrees in engineering and advanced degrees in land surveying in establishing the applicants' minimum composite knowledge and skill. ~~Graduation in a curriculum other than engineering or surveying from a college or university of recognized standing may be considered as equivalent to two (2) years of experience as set out in subsections (1)(b) and (2)(b) of this section: provided, however, that no applicant shall receive credit for more than four (4) years of experience because of undergraduate educational qualifications.~~

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent, shall not be deemed to be the practice of engineering, but if such experience, in the opinion of the board, has involved responsible supervision of a character that will tend to expand the engineering knowledge and skill of the applicant the board may in its discretion give such credit therefor as it may deem proper.

Any person having the necessary qualifications prescribed in this ~~act~~ chapter to entitle him to registration shall be eligible for such registration although he may not be practicing his profession at the time of making his application.

SECTION 10. That Section 54-1213, Idaho Code, be, and the same is hereby amended to read as follows:

54-1213. APPLICATIONS AND REGISTRATION FEES. Applications for registration as a professional engineer or professional land surveyor, or certification as an engineer-in-training or land surveyor-in-training, shall be on forms prescribed and furnished by the board. The application shall be made under oath, and shall show the applicant's education and a detailed summary of his technical and engineering or land surveying experience. An applicant for registration as a professional engineer or professional land surveyor shall furnish not less than five (5) references, of whom three (3) or more should be registered professional engineers or professional land surveyors, as applicable, having personal knowledge of the applicant's engineering or land surveying experience. An applicant for certification as an engineer-in-training or land surveyor-in-training shall furnish not less than three (3) ~~character~~ references of whom at least one (1) should be a registered professional engineer or professional land surveyor, as applicable, having personal knowledge of the applicant's engineering or land surveying experience. Applications for ~~certification~~ certificates of ~~corporations~~ authorization shall be made in accordance with section 54-1235, Idaho Code.

The maximum registration fee for professional engineers or professional land surveyors licensed by an eight (8) hour examination shall be one hundred fifty dollars ($150), of which a fee not to exceed one hundred thirty dollars ($130), shall accompany the application, and the remaining fee, not to exceed twenty dollars ($20.00), shall be paid prior to issuance of the certificate.

The maximum registration fee for a professional engineer licensed by a sixteen (16) hour examination shall be two hundred seventy dollars ($270), of which a fee not to exceed two hundred fifty dollars ($250) shall accompany the application, and the remaining fee, not to exceed twenty dollars ($20.00) shall be paid prior to issuance of the certificate.

The maximum certification fee for an applicant who seeks a certificate as an engineer-in-training or land surveyor-in-training shall be seventy-five dollars ($75.00), of which a fee not to exceed fifty-five dollars ($55.00), shall accompany the application, and the remaining fee, not to exceed twenty dollars ($20.00), shall be paid prior to issuance of the certificate.

The maximum certification fee for corporations shall be two hun-

dred twenty dollars ($220), of which a fee not to exceed two hundred dollars ($200), shall accompany the application, and the remaining fee, not to exceed twenty dollars ($20.00), shall be paid prior to issuance of the certificate.

Separate application fees shall accompany all applications for each of the four (4) classes of examinations: professional land surveyor, engineer-in-training, land surveyor-in-training and professional engineer.

The amount of the registration fee or certificate fee shall be fixed by the board prior to June 30th of any year and shall continue in force until changed. Said fees shall not be subject to change except at the beginning of each fiscal year.

Should the board deny the issuance of a certificate of registration or authorization to any applicant, the fee deposited shall be retained as an application fee.

SECTION 11. That Section 54-1214, Idaho Code, be, and the same is hereby amended to read as follows:

54-1214. EXAMINATIONS. (1) Examinations will be held at such times and places as the board directs. The board shall determine the acceptable grade on examinations.

(2) Written examinations will be given in two (2) sections and may be taken only after the applicant has met the other minimum requirements as given in section 54-1212, Idaho Code, and has been approved by the board for admission to the examinations as follows:

(a) ~~Engineering~~ Fundamentals of Engineering -- The examination consists of an eight (8) hour test period on the fundamentals of engineering. Passing this examination qualifies the examinee for an engineer-in-training certificate, provided he has met all other requirements of certification required by this ~~act~~ chapter.

(b) Principles and Practice of Engineering -- The examination consists of a minimum of an eight (8) hour test period on applied engineering. Passing this examination qualifies the examinee for registration as a professional engineer, provided he has met the other requirements for registration required by this ~~act~~ chapter.

(c) ~~Land-Surveying~~ Fundamentals of Land Surveying -- The examination consists of an eight (8) hour test period on the ~~basic disciplines~~ fundamentals of land surveying. Passing this examination qualifies the examinee for a land surveyor-in-training certificate, provided he has met all other requirements for certification required by this ~~act~~ chapter.

(d) Principles and Practice of Land Surveying -- The examination consists of a minimum of an eight (8) hour test period on applied land surveying. Passing this examination qualifies the examinee for registration as a professional land surveyor, provided he has met the other requirements for registration required by this ~~act~~ chapter.

(3) A candidate failing all or part of the examination may apply for reexamination, which may be granted upon payment of an additional fee of not to exceed a maximum of one hundred thirty dollars ($130) if the examination is for registration as a professional engineer or professional land surveyor by use of an eight (8) hour examination and

not to exceed a maximum of two hundred fifty dollars ($250) if the examination is for registration as a professional engineer by use of a sixteen (16) hour examination, and not to exceed fifty-five dollars ($55.00) if the examination is for certification as an engineer-in-training or land surveyor-in-training. Before readmission for a section of the examination, in the event of a second failure, the examinee shall be required to appear before the board to submit evidence of having acquired the necessary additional knowledge to warrant assignment of the applicant to the third examination in a section.

(4) The board may prepare and adopt specifications for the written examinations in engineering and land surveying. They shall be published in brochure form and be available to any person interested in being registered as a professional engineer or as a professional land surveyor.

SECTION 12. That Section 54-1215, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

(b) The seal, ~~and~~ signature and date shall be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information and calculations, whenever presented to a cli-

ent or any public or governmental agency.

(c) The seal, ~~and~~ signature and date shall be placed on all originals~~,--copies,-tracings-or-other-reproducible~~ documents in such a manner that the seal, ~~and~~ signature and date will be reproduced on all copies. The application of the registrant's seal, ~~and~~ signature and date shall constitute certification that the work thereon was done by him or under his responsible charge. Each plan or drawing sheet shall be sealed and signed by the registrant or registrants responsible for each sheet. In the case of a firm, partnership or corporation, each plan or drawing sheet shall be sealed and signed by the registrant or registrants involved. The principal in responsible charge shall sign and seal the title or first sheet. Only the title page of reports, specifications and like documents need bear the seal, signature and date of the registrant.

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

(e) In the case of a temporary permit issued to an engineering registrant of another state, the registrant shall use his state of registration seal and shall affix his signature to all his work performed in this state under the terms of the temporary permit.

(f) ~~In-the-case-of-an-engineering-registrant-checking-the-work-of an-out-of-state-registrant,-the-Idaho-registrant-shall--completely check--and--have-complete-dominion-and-control-of-the-design.-Such complete-dominion-and--control--must--include--possession--of--the sealed--and--signed--reproducible-construction-drawings,-with-complete-signed-and-sealed-calculations-indicating-all-changes-in-the design.~~

~~(g)~~ The design of the seal shall be determined by the ~~state~~ board; however, the following minimum information shall be on the seal:

The words "State of ~~registration~~ Idaho"
The r~~R~~egistrant's name
The r~~R~~egistrant's registration number
~~Contain-t~~The words "Professional Engineer" or "Professional Land Surveyor"

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

SECTION 13. That Section 54-1216, Idaho Code, be, and the same is hereby amended to read as follows:

54-1216. EXPIRATIONS AND RENEWALS -- FEES. Following issuance or renewal of certificates of registration for professional engineers and land surveyors, expiration shall be on the last day of the month during which the registrant was born and shall become invalid on that date unless renewed. Certificates of authorization for corporations

shall expire on the last day of the month of July following issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the ~~secretary of the~~ board to notify every person registered and every corporation certified under this chapter, of the date of the expiration of said certificate of registration or certificate of authorization and the amount of the fee that shall be required for its renewal. ~~Not later than June 30, 1991, the secretary of the board shall notify every person registered under this chapter, of the date of the expiration of said certificate of registration and the amount of the fee that shall be required for its renewal for a one (1) year period plus an additional amount prorated on an annual basis for the number of months beginning with August, 1992, through and including the month in which the registrant was born. Thereafter, s~~Such notice shall be mailed to the last known address of the registrant or corporation at least one (1) month in advance of the date of the expiration of said certificate or authorization. Renewal may be effected at any time during the month in which the registrant was born or during the month of July in the case of corporations, by the payment of a renewal fee to be fixed by the board at not less than three dollars ($3.00) nor more than seventy-five dollars ($75.00). The failure on the part of any registrant or certificate holder to renew his or its certificate annually in the month in which they were born or in the month of July in the case of corporations, as required above shall not deprive such person or corporation of the right of renewal, but the fee to be paid for the renewal of a certificate after the month in which it is due shall be increased twenty percent (20%) for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the renewal fee for each year delinquent, but in no event more than one hundred fifty dollars ($150). Any work performed after a registration or certificate of authorization has expired, but before delayed renewal has been effected, shall become valid upon delayed renewal as if the registration or certificate of authorization had not expired, but the registrant or certificate holder shall be subject to disciplinary action by the board for practice on an expired license or such other action as provided pursuant to this chapter.

Following issuance or renewal of certificates of enrollment for engineers-in-training and land surveyors-in-training, expiration shall be on the last day of the month during which the certificate holder was born. The notification to holders of certificates of enrollment shall be processed as prescribed above for registrants except that the annual renewal fee shall not be less than two dollars ($2.00) nor more than fifteen dollars ($15.00). The failure on the part of any holder of a certificate of enrollment to effect renewal shall not invalidate his status as an engineer-in-training or land surveyor-in-training, but his name shall, after ninety (90) days, be removed from the board's current mailing list.

SECTION 14. That Section 54-1217, Idaho Code, be, and the same is hereby repealed.

SECTION 15. That Section 54-1219, Idaho Code, be, and the same is hereby amended to read as follows:

54-1219. COMITY CERTIFICATION -- FEE. The board, upon application therefor and the payment of a fee of not to exceed a maximum of one hundred fifty dollars ($150), may issue a certificate of registration as a professional engineer or professional land surveyor to any person who holds a certificate of registration issued to the applicant by the proper authority of any state, territory or possession of the United States, the District of Columbia, or of a foreign country, provided that the ~~requirements for the indicated registration under which said certificate of registration was issued, were of a standard not lower than those~~ applicant possesses the education, experience and examination credentials that were specified in the applicable registration ~~act~~ chapter in effect in this state at the time such certificate was issued, provided that a professional land surveyor applicant must successfully pass a land surveying examination as prepared and administered by the board, and provided such state, territory, possession or country will license or issue certificates of registration, without examination and upon substantially the same condition, to applicants holding licenses or certificates of registration issued by the board under this ~~act~~ chapter.

SECTION 16. That Section 54-1220, Idaho Code, be, and the same is hereby amended to read as follows:

54-1220. DISCIPLINARY ACTION -- PROCEDURES. (1) Any person may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of the rules of professional responsibility for professional engineers, professional land surveyors and corporations with certificate of authorization against any individual registrant or against any corporation holding a certificate of authorization or against a person applying for a certificate of authorization. Repeated acts of negligence~~, incompetence, misconduct, or violations of the rules of professional responsibility~~ may be considered as a gross act for disciplinary action. Such charges shall be in writing, and shall be sworn to by the person or persons making them and shall be filed with the executive secretary of the board. The executive secretary of the board may be the person making and filing the charges.

(2) All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within six (6) months after the date ~~on which~~ they ~~shall have been preferred~~ were received at the board office.

(3) The time and place for said hearing shall be fixed by the board and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such individual registrant or corporation holding a certificate of authorization at least thirty (30) days before the date fixed for the hearing. The proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(4) If, after such hearing, the board votes in favor of sustaining the charges, the board may, in its discretion, impose an administrative penalty, not to exceed two thousand dollars ($2,000) for deposit in the general account of the state of Idaho. In addition, the board, in its discretion, may admonish, reprimand, suspend, revoke, ~~or~~ refuse to renew, refuse to grant, or any combination thereof, the

individual's certificate of registration or a corporation's certificate of authorization. The board may also, in its discretion, require the individual to practice under the supervision of another licensee, or require the individual to successfully complete continuing education courses as may be prescribed by the board.

(5) The board shall have jurisdiction over registrants whose licenses are not current provided the action relates to services performed when the license was current and valid.

SECTION 17. That Section 54-1223, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(2) ~~Temporary Permits.~~

~~(a) Professional Engineer. The practice of professional engineering by a person not a resident of and having no established place of business in this state, when such practice does not exceed in the aggregate more than thirty (30) days in any calendar year and provided such person is duly licensed or registered to practice such profession in a state in which the requirements and qualifications for obtaining a certificate of registration or license are not lower than those specified in this act for obtaining the license required for such work, upon examination, and provided further that such nonresident shall file with the board, on or before entering the state for commencing such work, a statement to be filed with the board, accompanied by a filing fee not to exceed one hundred dollars ($100), giving his name, residence, the number of his license or certificate of registration and by what authority issued, and the place and nature of the work on which he will be engaged in this state and, upon the completion of the work, an exit statement of the time engaged in such work within the state shall be filed with the board; provided, however, no right to practice engineering shall accrue to such applicant with respect to any other work not set forth in said permit;~~

~~(b) Professional Land Surveyor. The practice of land surveying under a temporary permit by a person registered as a professional land surveyor in another state is not considered to be in the best interests of the public, and therefore, shall not be granted.~~

~~(3) Employees and Subordinates.~~ The work of an employee or a subordinate of a person holding a certificate of registration under this ~~act~~ chapter, or an employee of a person practicing lawfully under ~~paragraph (2) of~~ a temporary permit issued as provided in this ~~section~~ chapter, provided such work does not include final engineering design or land surveying decisions and is done under the direct responsibility, checking, and supervision of, and verified by, a person holding a certificate of registration under this

~~act~~ chapter or a person practicing lawfully under ~~paragraph (2) of~~ a temporary permit issued as provided in this ~~section~~ chapter.

(~~4~~3) Any individual teaching upper division engineering subjects that are classified as engineering design for any college or university in this state as of July 1, 1988, and any such individual employed after July 1, 1988, for a period of three (3) years from the date of employment with any college or university in this state.

(~~5~~4) ~~Individuals--or-Firms-Doing-Work-for-Themselves.~~ An individual doing surveying work for himself ~~or--herself~~, or through a firm, partnership or corporation, on property owned or leased by the individual, firm, partnership or corporation, or in which the individual, firm, partnership or corporation has an interest, estate or possessory right and which affects exclusively the property or interests of the individual, firm, partnership or corporation; provided, that all land surveying maps, plats or plans filed with any county recorder's office in the state of Idaho for the purpose of illustrating or defining boundaries of property ownership, shall be made and certified by a registered, professional land surveyor as provided in this chapter.

(~~6~~5) ~~Mining--Claim--Location.~~ An individual doing survey work for himself ~~or-herself~~, or through a firm, partnership or corporation with respect to the location, amendment, or relocation of a mining claim.

(~~7~~6) ~~Individuals--Doing--Work--for-Corporations-or-Companies.~~ The practice of engineering by employees of a corporation or a company as long as the services provided by them are for internal corporate or company use only.

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

C. During the period beginning July 1, 1996, and ending June 30, 1999, applicants shall be entitled to apply for licensure or certification under the provisions of section 54-1212, Idaho Code, which are in effect on June 30, 1996.

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

SECTION 18. That Chapter 12, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1224, Idaho Code, and to read as follows:

54-1224. TEMPORARY PERMITS. The practice of professional engineering by a person not a resident of and having no established place of business in this state shall be allowed, when such practice does not exceed a twelve (12) month period and provided such person is duly licensed or registered to practice such profession in any other state,

or in any territory of possession of the United States, the District of Columbia, or a foreign country, provided that the applicant possesses the education, experience and examination credentials that were specified in the applicable registration law in effect in this state at the time such certification was issued, and provided further that such non-resident files with the board, on or before entering the state for commencing such work, a statement, accompanied by a filing fee not to exceed one hundred dollars ($100), giving his name, residence, the number of his license or certificate of registration and by what authority issued, and the place and nature of the work on which he will be engaged in this state and files with the board, upon the completion of the work, an exit statement of the time engaged in such work within the state. No right to practice professional engineering shall accrue to such applicant with respect to any other work not set forth in the permit. Not less than three (3) years shall elapse after expiration of a temporary permit for an applicant to be eligible for issuance of a subsequent temporary permit.

The practice of professional land surveying under a temporary permit by a person registered as a professional land surveyor in another jurisdiction is not considered to be in the best interests of the public, and therefore, shall not be granted.

SECTION 19. That Section 54-1227, Idaho Code, be, and the same is hereby amended to read as follows:

54-1227. SURVEYS -- AUTHORITY AND DUTIES OF PROFESSIONAL LAND SURVEYORS AND PROFESSIONAL ENGINEERS. Every registered, professional land surveyor is hereby authorized to make land surveys relating to the sale or subdivision of lands, the retracing or establishing of property or boundary lines, public roads, streets, alleys, or trails; and it shall be the duty of each registered professional land surveyor, whenever making any such land survey, ~~whether the land survey be made for private persons, corporations, cities or counties,~~ to set permanent and reliable monuments, the minimum size of which shall be one-half (1/2) inch in least dimension and two (2) feet long iron or steel rod unless special circumstances preclude use of such monument; and such monuments must be permanently marked with the registration number of the professional land surveyor responsible for placing the monument. Professional engineers qualified and duly registered pursuant to title 54, Idaho Code, may also perform those surveys necessary and incidental to the work customarily performed by them.

SECTION 20. That Section 54-1229, Idaho Code, be, and the same is hereby amended to read as follows:

54-1229. LEGAL SURVEY OF LAND. No survey of land, or plat or subdivision shall be legal unless made by or under the direct supervision of a ~~registered,~~ professional land surveyor.

All land surveys made under the authority of the state, or of any county, town, city or village within the state, must be performed by a ~~registered,~~ professional land surveyor.

SECTION 21. That Section 54-1235, Idaho Code, be, and the same is

hereby amended to read as follows:

54-1235. PRACTICE BY CORPORATIONS. (1) The practice of or offer to practice professional engineering or professional land surveying, as defined in ~~section 54-1202, Idaho Code~~ this chapter, by ~~individual registered,~~ professional engineers or ~~individual--registered,~~ professional land surveyors, through a corporation, or by a corporation through ~~individual-registered,~~ professional engineers or ~~individual registered,~~ professional land surveyors, as employees, or officers, is permitted subject to the provisions of this chapter, provided that all personnel of such corporation, who act in its behalf as professional engineers or professional land surveyors in this state are registered as provided by this chapter, or are persons lawfully practicing under the exemptions enumerated in ~~section 54-1223, Idaho Code~~ this chapter, and further provided that said corporation, except utilities regulated by the Idaho public utilities commission, has been issued a certificate of authorization by the board as provided by this chapter. No corporation shall be relieved of responsibility for the conduct or acts of its employees or officers by reason of its compliance with the provisions of this chapter, nor shall any individual practicing professional engineering or professional land surveying as defined in ~~section--54-1202, Idaho Code~~ this chapter, be relieved of responsibility for engineering or land surveying services performed by reason of his employment or relationship with such corporation. All final drawings, specifications, plats, reports, or other engineering or land surveying papers or documents involving the practice of professional engineering or professional land surveying as defined in ~~section 54-1202,--Idaho--Code~~ this chapter, which shall have been prepared or approved for the use of or for delivery to any person or for public record within this state shall be dated and bear the signature and seal of the professional engineer or professional land surveyor who prepared or approved them.

(2) A corporation organized pursuant to this section may provide or offer to provide allied professional services as defined in section 30-1303, Idaho Code, in connection with the providing of engineering or land surveying services, by persons licensed in allied professions acting as employees or officers, provided such persons are duly licensed or otherwise legally authorized to render such allied professional services within this state.

(3) A corporation desiring a certificate of authorization for engineering, for land surveying, or for both, shall file with the board a description of the engineering or land surveying service to be offered or practiced in the state, an application upon a form to be prescribed by the board and the designation required by the following paragraph, accompanied by the application fee.

(4) Such corporation shall file with the board a designation of an individual or individuals duly registered and certified to practice professional engineering or professional land surveying in this state who shall be in responsible charge of the practice of professional engineering or land surveying, as applicable, by said corporation in this state. In the event there shall be a change in the individual or individuals in responsible charge, such changes shall be designated in writing and filed with the board within thirty (30) days after the

effective date of such change.

If all requirements of this chapter are met, the board shall issue to such corporation a certificate of authorization for professional engineering, for land surveying, or for both; provided, however, the board may refuse to issue a certificate if any facts exist which would entitle the board to suspend or revoke an existing certificate.

A professional engineer or professional land surveyor who renders occasional, part-time or consulting engineering or land surveying services to or for a firm may not be designated as the person in responsible charge for the professional activities of the firm.

(5) The secretary of state shall not issue a certificate of incorporation as a domestic corporation or a certificate of ~~registration~~ authority as a foreign corporation authorized to do business in this state to a firm which includes, among objects for which it is established, any of the words "engineer," "engineering," "land surveyor," "land surveying," or any modification or derivation thereof, unless the board shall have issued for said applicant a certificate of authorization or a letter indicating the eligibility of said applicant to receive such certificate. The firm applying shall supply such certificate or letter from the board with its application for incorporation or registration with the secretary of state.

Approved March 20, 1996.

CHAPTER 358
(H.B. No. 872)

AN ACT

RELATING TO THE IDAHO FOOD QUALITY ASSURANCE INSTITUTE; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 83, TITLE 67, IDAHO CODE, TO CREATE THE IDAHO FOOD QUALITY ASSURANCE INSTITUTE, TO PROVIDE FOR NINE COMMISSIONERS OF THE INSTITUTE TO BE APPOINTED BY THE GOVERNOR AND SERVE AT THE PLEASURE OF THE GOVERNOR, TO PROVIDE TERMS OF OFFICE, TO PROVIDE FOR A CHAIRMAN OF THE COMMISSION AND TO PROVIDE FOR ADVISORS TO THE COMMISSION, TO PROVIDE FOR A VICE-CHAIRMAN OF THE COMMISSION, TO PROVIDE FOR THE TRANSACTION OF BUSINESS BY THE COMMISSION AND THE APPOINTMENT OF AN EXECUTIVE DIRECTOR, AND TO PROVIDE THE POWERS OF THE INSTITUTE; AND PROVIDING A SUNSET DATE.

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

SECTION 1. 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 83, Title 67, Idaho Code, and to read as follows:

CHAPTER 83
IDAHO FOOD QUALITY ASSURANCE INSTITUTE

67-8301. IDAHO FOOD QUALITY ASSURANCE INSTITUTE CREATED. There is hereby created an independent public body corporate and politic to be

known as the Idaho food quality assurance institute. The institute shall be exempt from taxation.

67-8302. COMMISSIONERS -- CHAIRMAN -- APPOINTMENTS. The governor shall appoint nine (9) persons to be commissioners of the Idaho food quality assurance institute. The commissioners shall serve at the pleasure of the governor and shall include the following:

(1) One (1) representative of a row crop commodity commission;
(2) One (1) representative of an orchard commodity commission;
(3) One (1) representative of a grain commodity commission;
(4) One (1) representative of a specialty commodity commission;
(5) One (1) representative of an animal products commodity commission;
(6) One (1) consumer;
(7) One (1) representative of the Idaho department of agriculture;
(8) One (1) representative of the college of southern Idaho;
(9) One (1) scientist with practical experience in quality certification procedures and standards.

The governor shall appoint a chairman from among the nine (9) commissioners. The commissioners shall be appointed for terms of four (4) years, except that all vacancies shall be filled for the unexpired term. The terms of the first nine (9) commissioners shall end on July 1, 2000; the terms of four (4) of the commissioners next appointed shall end on July 1, 2002, and the terms of the remaining five (5) commissioners next appointed shall end on July 1, 2004. A commissioner shall hold office until a successor has been appointed and qualifies. A certificate of the appointment or reappointment of any commissioner shall be filed in the office of the secretary of state and in the office of the institute, and the certificate shall be conclusive evidence of the due and proper appointment of the commissioner. The governor, the state treasurer, the state controller and the administrator of the division of financial management shall serve as advisors to the commissioners of the institute.

In addition, two (2) members of the Idaho senate, one (1) from the majority party and one (1) from the minority party, and two (2) members of the Idaho house of representatives, one (1) from the majority party and one (1) from the minority party, may be appointed by the legislative council to serve as advisors to the commissioners of the institute. Such appointments shall be for a term of two (2) years beginning on January 1 of each odd-numbered year, and no appointee shall serve more than two (2) terms. Actual and necessary expenses and per diem shall be allowed as provided for members of the legislative council, and shall be paid from legislative funds.

67-8303. VICE-CHAIRMAN, EXECUTIVE DIRECTOR AND OTHER PERSONNEL -- APPOINTMENTS -- QUORUM. As soon as possible after their appointment the commissioners shall organize for the transaction of business by choosing a vice-chairman and by adopting bylaws and rules suitable to the purpose of organizing the institute and conducting the business thereof. The powers of the institute shall be vested in the commissioners. A majority of the commissioners of the institute then in office shall constitute a quorum for the transaction of any business

or the exercise of any power or function of the institute, and the affirmative vote of a majority of the commissioners present at any meeting, at which there is a quorum present, shall be necessary for any action taken by the institute. The commissioners may hold any of their meetings by telephone or video facilities. No vacancy in the membership of the commissioners shall impair the right of a quorum to exercise all the rights and perform all the duties of the institute. The commissioners may appoint an executive director, who shall serve at the pleasure of the commissioners, and such other officers and employees as the commissioners may require for the performance of their duties and shall prescribe the duties and compensation of each officer and employee.

67-8304. POWERS OF THE INSTITUTE. The Idaho food quality assurance institute is an independent public body corporate and politic, exercising public and essential governmental functions, and having all the powers which are hereby declared to be public purposes necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein granted:

(1) To provide an ongoing quality assurance testing program for Idaho agricultural commodities by analyzing and documenting the food safety practices of Idaho producers;

(2) To provide for the management and operation of the quality assurance laboratory at Twin Falls, Idaho;

(3) To establish fees for testing and analysis of agricultural commodities and for any other services to be provided to Idaho producers by the laboratory or the institute;

(4) To provide for certification of testing results;

(5) To sue and to be sued, to have a seal and to alter the same at pleasure, to have perpetual succession, and to make and execute agreements, contracts and other instruments necessary or convenient to the exercise of the powers and duties of the institute;

(6) To insure or provide for the insurance of any real or personal property or operation of the institute against any risks or hazards;

(7) To own, hold and improve personal property; to purchase, lease, obtain options upon, or acquire by gift, grant, bequest, devise or otherwise, any personal property or any interest therein;

(8) To make and from time to time amend and repeal bylaws and rules, not inconsistent with this act, to carry into effect the powers and purposes of the institute.

SECTION 2. The provisions of this act shall be null, void and of no force and effect on and after June 30, 2002.

Approved March 20, 1996.

CHAPTER 359
(H.B. No. 720)

AN ACT

RELATING TO THE PARENT RESPONSIBILITY ACT; AMENDING TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 13, TITLE 32, IDAHO CODE, TO PROVIDE THAT CITIES AND COUNTIES MAY ENACT AND ENFORCE ORDINANCES FOR FAILURE TO SUPERVISE A CHILD, TO PROVIDE THE ELEMENTS OF THE OFFENSE, TO PROVIDE WHO SHALL BE SUBJECT TO PROSECUTION UNDER THE ORDINANCE, TO PROVIDE WHEN A PERSON SHALL NOT BE SUBJECT TO PROSECUTION UNDER THE ORDINANCE, TO PROVIDE FOR RESTITUTION, TO PROVIDE FOR A WARNING FOR A FIRST OFFENSE, TO PROVIDE FOR MISDEMEANOR PENALTIES FOR A SECOND OR SUBSEQUENT OFFENSE, PROVIDING FOR ATTENDANCE AT PARENTING CLASSES OR TREATMENT OR COUNSELING IN LIEU OF THE FINE, TO PROVIDE FOR JURISDICTION OF THE OFFENSE, TO PROVIDE FOR CONTEMPT PROCEEDINGS AGAINST THE PERSON AND FOR ADDITIONAL ACTIONS AGAINST THE PERSON UNDER OTHER LAW; AMENDING SECTION 20-520, IDAHO CODE, AS ADDED BY SENATE BILL 1426 ENACTED BY THE SECOND REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE, TO PROVIDE THAT THE JUVENILE'S PARENTS, LEGAL GUARDIAN OR CUSTODIAN SHALL BE SUBJECT TO CONTEMPT PROCEEDINGS FOR VIOLATING A COURT ORDER ENTERED UNDER THE JUVENILE CORRECTIONS ACT; AND AMENDING SECTION 20-522, IDAHO CODE, TO PROVIDE THAT THE JUVENILE'S PARENTS, LEGAL GUARDIAN OR CUSTODIAN SHALL BE SUBJECT TO CONTEMPT PROCEEDINGS FOR VIOLATING A COURT ORDER ENTERED UNDER THE SECTION.

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

SECTION 1. That Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 13, Title 32, Idaho Code, and to read as follows:

CHAPTER 13
PARENT RESPONSIBILITY ACT

32-1301. CITIES AND COUNTIES MAY ENACT AND ENFORCE ORDINANCES FOR FAILURE TO SUPERVISE A CHILD. (1) Any county or city may by ordinance establish and enforce the offense of failure to supervise a child as provided in this section.

(2) The ordinance may provide that a person who is the parent, lawful guardian or other person, except a foster parent, lawfully charged with the care or custody of a child under sixteen (16) years of age commits the offense of failure to supervise a child if the child:

(a) Commits an act bringing the child within the purview of the juvenile corrections act, chapter 5, title 20, Idaho Code; or

(b) Fails to attend school or is not comparably instructed, as provided in section 33-202, Idaho Code; or

(c) Violates a curfew law of the county or city enacting the ordinance authorized under this section.

(3) (a) A person shall not be subject to prosecution under an ordinance containing the provisions of subsection (2)(a) of this

section if the person:

(i) Is the victim of the act bringing the child within the purview of the provisions of chapter 5, title 20, Idaho Code; or

(ii) Reported the act of the child to the local law enforcement agency, the juvenile court, the department of health and welfare or other appropriate authority as provided in the ordinance;

(b) A person shall not be subject to prosecution under an ordinance containing the provisions of subsections (2)(a), (b) or (c) of this section if the person shows to the satisfaction of the court that the person took reasonable steps to control the conduct of the child at the time the person is alleged to have failed to supervise the child.

(4) Except as provided in subsection (5) of this section, the ordinance may provide that in a prosecution for failure to supervise a child the court may order the person 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, provided that the restitution ordered to be paid shall not exceed twenty-five hundred dollars ($2,500).

(5) An ordinance enacted pursuant to this section shall provide that if a person is found guilty or pleads guilty to the offense of failure to supervise a child and the person has not previously been found guilty or pled guilty to the offense of failure to supervise a child, the court:

(a) Shall warn the person of the penalty for any future conviction of failure to supervise a child and suspend the imposition of sentence;

(b) Shall not order the person to pay restitution.

(6) (a) The ordinance enacted pursuant to this section shall further provide that if the person is found guilty or pleads guilty to a second offense of failure to supervise a child and if the person has previously been found guilty or has pled guilty to the offense of failure to supervise a child, the person shall be guilty of a misdemeanor and shall be subject to a fine of not more than one thousand dollars ($1,000). The ordinance may provide that, in lieu of imposing a fine, the court, with the consent of the person, may order the person to complete parenting classes or undertake other treatment or counseling, as approved by the court, and upon the person's completion of the classes, treatment or counseling to the satisfaction of the court, the court may discharge the person or if the person fails to complete the program to the satisfaction of the court, the court may impose the penalty provided in this section.

(b) The ordinance may provide that any person violating the orders of the court entered under the ordinance shall be subject to contempt proceedings in accordance with chapter 6, title 7, Idaho Code, in addition to any other penalties authorized pursuant to this section.

(7) The ordinance may provide that the juvenile court has jurisdiction over a first offense of failing to supervise a child and that

any subsequent offense shall be subject to the jurisdiction of the magistrate's division of the district court, or may provide that any offense of failing to supervise the child shall be subject to the jurisdiction of the juvenile court or to the jurisdiction of the magistrate's division of the district court.

(8) Conviction of a person under an ordinance enacted under the authority of this section shall not preclude any other action or proceedings against the person which may be undertaken pursuant to the provisions of chapter 5, title 20, Idaho Code, or other provisions of law.

SECTION 2. That Section 20-520, Idaho Code, as added by Senate Bill 1426 enacted by the Second 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 ninety (90) days for each unlawful or criminal act the juvenile is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the juvenile has been adjudicated as an habitual status offender;

(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 one hundred eighty (180) days for each unlawful or criminal act;

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

(h) The court may order that the juvenile be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he receive other special care, or that he submit to an alcohol or drug evaluation, if needed, and for such purposes may place the juvenile in a hospital or other suitable facility;

(i) In support of an order under the provisions of this section, the court may make an additional order setting forth reasonable conditions to be complied with by the parents, the juvenile, his legal guardian or custodian, or any other person who has been made a party to the proceedings, including, but not limited to, restrictions on visitation by the parents or one (1) parent, restrictions on the juvenile's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

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

(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) years may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 20-518, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to section 20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

(l) An order under the provisions of this section for probation or placement of a juvenile with an individual or an agency may provide a schedule for review of the case by the court;

(m) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

(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;

(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;

(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 trans-

mitted by the court for deposit in the juvenile corrections account which is created in section 20-542, Idaho Code.

(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.

(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. The amount of restitution which may be ordered by the court shall not be subject to the limitations of section 6-210, Idaho Code.

(4) Any parent, legal guardian or custodian violating any order of the court entered against the person under the provisions of this chapter shall be subject to contempt proceedings under the provisions of chapter 6, title 7, Idaho Code.

SECTION 3. That Section 20-522, Idaho Code, be, and the same is hereby amended to read as follows:

20-522. JURISDICTION OVER PARENTS. Whenever a juvenile is found to come under the purview of this chapter, 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. 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. Any person violating any order of the court entered under the provisions of this section shall be subject to contempt proceedings under the provisions of chapter 6, title 7, Idaho Code.

Approved March 20, 1996.

CHAPTER 360
(H.B. No. 738, As Amended)

AN ACT

RELATING TO FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1404, IDAHO CODE, TO REVISE NOTICE OF HEARING REQUIREMENTS ON PETITIONS; AMENDING SECTION 31-1409, IDAHO CODE, TO DELETE ARCHAIC LANGUAGE; AMENDING SECTION 31-1411, IDAHO CODE, TO AUTHORIZE A HEARING UPON WRITTEN CONSENT OF THE PETITIONER WITHIN ONE HUNDRED EIGHTY DAYS OF RECEIPT OF THE PETITION BY THE FIRE PROTECTION BOARD AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-1415, IDAHO CODE, TO PROVIDE DUTIES OF THE BOARD OF FIRE PROTECTION COMMISSIONERS AND TO PROVIDE ADDITIONAL POWERS TO FIRE PROTECTION DISTRICTS; REPEALING SECTION 31-1416, IDAHO CODE; AMENDING SECTION 31-1423, IDAHO CODE, TO PROVIDE UPON RESOLUTION OF THE BOARD, CHECKS MAY BE SIGNED BY A BONDED, DESIGNATED REPRESENTATIVE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-1428, IDAHO CODE, TO REVISE HEARING PROCEDURES ON A PETITION FOR WITHDRAWAL AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-1429, IDAHO CODE, TO REVISE PROCEDURES FOR INCLUSION, ANNEXATION OR WITHDRAWAL OF AREAS IN CITIES; AMENDING SECTION 63-2215, IDAHO CODE, TO PROVIDE THAT IN THE CASE OF FIRE PROTECTION DISTRICTS, THE BOARD OF COUNTY COMMISSIONERS APPROVING THE BOUNDARIES SHALL BE RESPONSIBLE FOR DELIVERING TO THE COUNTY ASSESSOR AND COUNTY RECORDER THE MAP AND LEGAL DESCRIPTION OF THE AMENDED DISTRICT BOUNDARIES.

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

SECTION 1. That Section 31-1404, Idaho Code, be, and the same is hereby amended to read as follows:

31-1404. NOTICE OF HEARING ~~OF PROTEST~~. When such petition is presented to the board of county commissioners and filed in the office of the clerk of such board, the said board shall set a time for a hearing upon such petition, which time shall not be less than four (4) nor more than six (6) weeks, from the date of the presentation and filing of such petition. A notice of the time of such hearing shall be published by said board, once each week for three (3) successive weeks previous to the time set for such hearing, in a newspaper published within each county in which said district is to be situated. Said notice shall state that a fire protection district is proposed to be

organized, giving the proposed boundaries thereof, and that any taxpayer within the proposed boundaries of such proposed district may on the date fixed for such hearing appear and offer any ~~objection~~ testimony pertaining to the organization of such district, the proposed boundaries thereof or the including or excluding of any real property therein or therefrom. After hearing and considering any and all ~~objections~~ testimony, if any such be interposed, the county commissioners shall thereupon make an order thereon either denying such petition or granting the same, with or without modification, and shall accordingly fix the boundaries of such proposed district in any order granting such petition. The boundaries so fixed shall be the boundaries of said district after its organization be completed as provided by this chapter, and a map showing the boundaries of such proposed district as finally fixed and determined by the board of county commissioners shall be prepared and filed in the office of the clerk of said board.

If the district is to be situated in two (2) or more counties, each board of county commissioners shall coordinate the hearing date and the publications of notice so that only one (1) hearing need be held. Unless otherwise agreed to by each board of county commissioners involved, the hearing shall be held in the county with the largest area to be included within the district, and the boards of county commissioners are hereby specifically authorized to act in a joint manner for such purposes.

SECTION 2. That Section 31-1409, Idaho Code, be, and the same is hereby amended to read as follows:

31-1409. RESIDENCE QUALIFICATIONS OF COMMISSIONERS -- TERM OF OFFICE -- VACANCIES. At the meeting of the board of county commissioners at which the fire protection district is declared organized, as provided by section 31-1407, Idaho Code, the county commissioners shall divide the fire protection district into three (3) subdivisions, as nearly equal in population, area and mileage as practicable, to be known as fire protection commissioners subdistricts one, two and three. Not more than one (1) of said commissioners shall be an elector of the same fire protection subdistrict. The first commissioners appointed by the governor shall serve until the next fire protection district election, at which their successors shall be elected. Any vacancy occurring in the office of the fire protection commissioner, other than by the expiration of the term of office, shall be filled by the fire protection board. Commissioners appointed and elected must be electors ~~and freeholders~~ resident within the district for at least one (1) year.

SECTION 3. That Section 31-1411, Idaho Code, be, and the same is hereby amended to read as follows:

31-1411. ANNEXATION OF TERRITORY IN SAME COUNTY -- PETITION -- HEARING -- ORDER -- CERTIFICATION TO COUNTY COMMISSIONERS -- ALTERNATE PROCEDURE -- ELECTION. After the organization of a fire protection district, additional contiguous or noncontiguous territory lying within the same county may be added thereto and shall thereupon and thenceforth be included in such district. Noncontiguous territory

annexed to an existing fire protection district shall consist of not less than forty (40) contiguous acres. At least seventy-five percent (75%) or more of the owners or contract purchasers of the land sought to be annexed shall petition the fire protection board and request annexation of the territory particularly described in said petition. Upon receipt of any such petition the fire protection board shall hold a hearing not less than ten (10) nor more than thirty (30) days thereafter, or upon the written consent of the petitioner within one hundred eighty (180) days, and said board shall cause notice of such hearing, designating the time and place, to be published in at least one (1) issue of a newspaper of general circulation within the district. Any person supporting or objecting to such petition shall be heard at such hearing, if in attendance, and at the close of such hearing said board shall approve or reject said petition. If the board approves said petition it shall make an order to that effect and certify a copy of said order containing an accurate legal description of the annexed territory to the board of county commissioners of the county where said fire district is situated. Said board of county commissioners shall thereupon enter an order of annexation and cause the same to be recorded so as to include the annexed property on the tax rolls as in this chapter provided.

In the event that more than twenty-five percent (25%) of the owners or contract purchasers of the land sought to be annexed do not join in said petition or the petition is denied as above set forth, additional territory may nevertheless be annexed by the affirmative vote of a majority of the qualified electors of such additional territory voting on the question at an election held therefor, which vote may be taken at an election held as provided in section 31-1405, Idaho Code. But such additional territory shall not be annexed to or be included within the district unless such annexation and inclusion be first approved by the fire protection board of the existing district by resolution entered on the minutes of such board prior to the election on the question of annexation. The same procedure shall be adopted as provided in sections 31-1402 ~~to~~ through 31-1406, Idaho Code.

SECTION 4. That Section 31-1415, Idaho Code, be, and the same is hereby amended to read as follows:

31-1415. CORPORATE POWERS AND DUTIES OF BOARD OF FIRE PROTECTION COMMISSIONERS. The board of fire protection commissioners shall have power to manage and conduct the business and affairs of the district. Each fire protection district has power:

1. To sue and be sued.

2. To purchase, hold, sell and convey real property, make such contracts, and purchase, hold, sell and dispose of such personal property as may be necessary or convenient for the purposes of this act.

3. To levy and apply such taxes for purposes under its exclusive jurisdiction as are authorized by law.

4. To make and execute all necessary contracts.

5. To adopt such rules as may be necessary to carry out their duties and responsibilities.

SECTION 5. That Section 31-1416, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 31-1423, Idaho Code, be, and the same is hereby amended to read as follows:

31-1423. HANDLING OF DISTRICT FUNDS. Such funds shall immediately be paid over by the county treasurer to the treasurer of the fire protection district, who shall deposit the same in a bank and be handled in the manner prescribed by the state depository law and all other funds received, by or on behalf of the district, shall be deposited by the treasurer to the credit of the district fund and shall be drawn ~~but~~ only upon voucher and by check bearing the signature of the treasurer and countersigned by the president of such district, or upon resolution of the board, such checks may be signed by a designated representative who has been bonded in an amount deemed appropriate by the board.

SECTION 7. That Section 31-1428, Idaho Code, be, and the same is hereby amended to read as follows:

31-1428. HEARING OF PETITION FOR WITHDRAWAL. Any person interested may appear at said hearing and ~~object~~ testify upon any issue pertaining to the withdrawal of said portion from said district, or may object to or support the continuance of the remaining territory as a county fire protection district, and the board of county commissioners shall consider all objections and shall pass upon the same, and if it finds that said portion of the district sought to be withdrawn will not be benefited by remaining within said district, and that the territory not sought to be withdrawn will be benefited by continuing as a county fire protection district, then it shall grant said petition and enter an order thereon upon its records. Upon the withdrawal of any territory from a county fire protection district, as in this section provided, all property acquired for the district shall remain vested in the county and be used for the purposes of the district.

SECTION 8. That Section 31-1429, Idaho Code, be, and the same is hereby amended to read as follows:

31-1429. INCLUSION, ANNEXATION OR WITHDRAWAL OF AREA IN CITIES. Any area embraced within the limits of any city may, with the consent of the governing board thereof, expressed by ordinance or resolution, be included within the limits of a fire protection district, when formed, or be subsequently annexed thereto. Any area in any city embraced within the limits of a fire protection district, ~~may~~ shall, upon the consent of the governing board thereof, expressed by ordinance or resolution, be withdrawn from ~~the district upon proceedings as elsewhere provided in this act~~ such fire district.

SECTION 9. That Section 63-2215, Idaho Code, be, and the same is hereby amended to read as follows:

63-2215. LEGAL DESCRIPTION AND MAP OF BOUNDARIES OF NEWLY ORGA-

NIZED OR ALTERED TAXING UNITS TO BE FILED WITH THE COUNTY RECORDER, COUNTY ASSESSOR AND STATE TAX COMMISSION. (a) Any city, town, village, school district, cemetery, fire, water, sewer, hospital, or other district or municipality which has the power to levy taxes, which shall be formed or organized after this act becomes effective, or which shall change any existing boundaries thereof after this act becomes effective, shall cause one (1) copy of the legal description and map prepared in a draftsmanlike manner which shall plainly and clearly designate the boundaries of such district or municipality as formed or organized, or in the case of alteration of the boundaries of an existing district or municipality, a complete legal description as altered and a supplemental map prepared in a draftsmanlike manner which shall plainly and clearly designate the boundaries of the altered portion of the district, to be filed with the county recorder, county assessor in the counties within which the unit is located, and the state tax commission within ten (10) days following the effective date of such formation, organization, or alteration. In the case of fire protection districts, the board of county commissioners approving the boundaries shall be responsible for delivering to the assessor and recorder the map and legal description of the amended district boundaries.

(b) The county assessor, county auditor and state tax commission shall retain on file in their respective offices all copies of legal descriptions of taxing district boundaries and maps filed by the various taxing jurisdictions authorized to impose a levy on property.

(c) The state tax commission shall be responsible for providing copies of uniform system tax code area numbers and maps to the county assessor, county auditor and county treasurer and various companies having operating property subject to assessment in the state of Idaho and under the jurisdiction of the state tax commission for assessment and taxation purposes.

(d) "Tax code area" for purposes of this section shall mean a geographical area made up of one (1) or more taxing districts with one (1) total levy within its boundary.

(e) Unless otherwise specifically authorized to form with noncontiguous boundaries, or to annex or deannex properties so as to make noncontiguous boundaries, all taxing districts shall form with and maintain contiguous boundaries.

Approved March 20, 1996.

CHAPTER 361
(H.B. No. 643, As Amended)

AN ACT

RELATING TO RECORDS OF THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 16-1623, IDAHO CODE, TO PROVIDE THAT CERTAIN RECORDS SHALL BE RELEASED TO A DULY ELECTED STATE OFFICIAL CARRYING OUT OFFICIAL FUNCTIONS AND TO CORRECT A CODIFIER'S ERROR.

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

SECTION 1. That Section 16-1623, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(b) On December 1, the department shall make an annual statistical report to the governor covering the preceding fiscal year showing the number and status of persons in its custody and including such other data as will provide sufficient facts for sound planning in the conservation of children and youth. All officials and employees of the state and of every county and city shall furnish the department upon request, such information within their knowledge and control as the department deems necessary. Local agencies shall report in such uniform format as may be required by the department.

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

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

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

(f) The department shall keep written records of investigations, evaluations, prognosis and all orders concerning disposition or treatment of every person over whom it has legal custody. Department records shall be subject to disclosure according to chapter 3, title 9, Idaho Code, unless otherwise ordered by the court, the person consents to the disclosure, or disclosure is necessary for the delivery of services to the person. Notwithstanding the provisions restricting disclosure or the provisions of section 9-340, Idaho Code, all records pertaining to investigations, the rehabilitation of youth, the protec-

tion of children, evaluation, treatment and/or disposition records pertaining to the statutory responsibilities of the department shall be disclosed to any duly elected state official carrying out his official functions.

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

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

(i) The department shall give to the court any information concerning the child that the court may at any time require, but in any event shall report the progress of the child under its custody at intervals of not to exceed six (6) months.

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

Approved March 20, 1996.

CHAPTER 362
(H.B. No. 586)

AN ACT

RELATING TO TRANSMITTAL OF DOMESTIC VIOLENCE ORDERS TO LAW ENFORCEMENT AGENCIES; AMENDING SECTION 39-6311, IDAHO CODE, TO REMOVE AN ARCHAIC DATE AND TO PROVIDE THAT IF THE APPROPRIATE LAW ENFORCEMENT AGENCY DETERMINES THAT THE SERVICE INFORMATION SHEET IS INCOMPLETE OR CANNOT BE ENTERED INTO THE IDAHO LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEMS UPON RECEIPT, THE SERVICE INFORMATION SHEET SHALL BE RETURNED TO THE CLERK OF THE COURT AND THE CLERK SHALL NOTIFY THE PETITIONER OF THE ERROR OR OMISSION.

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

SECTION 1. 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. If the appropriate law enforcement agency determines that the service information sheet is incomplete or cannot be entered into the Idaho law enforcement telecommunications system upon receipt, the service information sheet shall be returned to the clerk of the court. The clerk of the court shall then notify the petitioner of the error or omission.

(3) Law enforcement agencies shall establish procedures reasonably adequate to assure that an officer approaching or actually at the scene of an incident of domestic violence may be informed of the existence and terms of such protection order.

(4) A protection order shall remain in effect for the term set by the court or until terminated by the court. A protection order may, upon motion and upon good cause shown, be renewed for additional terms not to exceed one (1) year each if the requirements of this chapter are met. The motion to renew an order may be granted without a hearing, if not timely objected to by the party against whom the order was entered. If the petitioner voluntarily and without duress consents to the waiver of any portion of the protection order vis-a-vis the respondent pursuant to section 39-6313, Idaho Code, the order may be modified by the court.

Approved March 20, 1996.

CHAPTER 363
(H.B. No. 748)

AN ACT

RELATING TO EXTRATERRITORIAL AUTHORITY OF PEACE OFFICERS; AMENDING SECTION 67-2337, IDAHO CODE, TO DELETE LANGUAGE AUTHORIZING THE DIRECTOR OF THE IDAHO DEPARTMENT OF LAW ENFORCEMENT TO COMMISSION

AS SPECIAL DEPUTIES, POLICE OFFICERS ENGAGED IN LAW ENFORCEMENT DUTIES WITHIN THE SCOPE OF MUTUAL ASSISTANCE COMPACTS.

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 amended 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--i~~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, 1996.

CHAPTER 364
(H.B. No. 648)

AN ACT

RELATING TO LIENS; AMENDING SECTION 49-510, IDAHO CODE, TO CHANGE THE THIRTY DAY "RELATION BACK" PERIOD APPLICABLE TO LIENS ON MOTOR VEHICLE TITLES TO TWENTY DAYS.

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

SECTION 1. That Section 49-510, Idaho Code, be, and the same is hereby amended to read as follows:

49-510. LIENS AND ENCUMBRANCES -- FILING -- FEE -- NOTATION ON CERTIFICATE -- CONSTRUCTIVE NOTICE. (1) No lien or encumbrance on any vehicle registered under the laws of this state created subsequent to December 31, 1986, irrespective of whether such registration was effected prior or subsequent to the creation of the lien or encumbrance, shall be perfected as against creditors or subsequent purchasers or encumbrancers without notice until the holder of the lien or encumbrance, or his successor or assignee, has complied with the requirements of section 49-504, Idaho Code, and has filed the properly completed title application and all required supporting documents with the department or an agent of the department.

When the holder of a lien or encumbrance, his successor or assignee, has filed with the department or agent of the department a properly completed title application and supporting documents as required by section 49-504, Idaho Code, it shall be the duty of the department or agent of the department to file the same, indorsing on the title application the date and hour of the creation of the lien or encumbrance. A lien is perfected as of the time of its creation if the transaction is notarized and if the filing is completed with the department or an agent of the department within ~~thirty~~ twenty (~~3~~20) calendar days thereafter; otherwise, as of the date of the filing with the department or an agent of the department. If the title application is incomplete or if the supporting documents are incomplete or missing, the title application and supporting documents as submitted will be returned to the lien holder or his successor or assignee for correction and, if the application is not resubmitted in a complete form, including completed supporting documents, to the department or to the agent of the department within twenty (20) days of their having been returned to the lien holder or his successor or assignee, the original date and hour of receipt by the department or agent of the department

shall be void.

When the department is satisfied as to the genuineness and regularity of the documents submitted, it shall issue a new certificate of title or create a paperless electronic record of the title and lien filing when substantiated by a written agreement as provided in section 49-505, Idaho Code. The title shall contain the name of the owner of the vehicle, the name and address of each holder of a lien or encumbrance, and a statement of all liens or encumbrances which have been filed with the department, together with the date of each lien or encumbrance and the date and hour received by the department or agent of the department. The filing of a lien or encumbrance and the notation of it shall be a condition of perfection and shall constitute constructive notice of the lien or encumbrance and its contents to creditors and subsequent purchasers and encumbrancers. All liens or encumbrances so filed with the department shall be perfected and take priority according to the order of time in which the same are noted upon the certificate of title or entered into the electronic records of the department.

(2) The notarization requirement set out in the second paragraph of subsection (1) of this section shall not apply to transactions involving a lien in favor of a regulated lender, as defined in section 28-41-301(37), Idaho Code, or a motor vehicle dealer licensed by the Idaho transportation department.

Approved March 20, 1996.

CHAPTER 365
(H.B. No. 711)

AN ACT

RELATING TO TERMINATION OF THE PARENT-CHILD RELATIONSHIP; AMENDING SECTION 16-2002, IDAHO CODE, TO PROVIDE A DEFINITION AND TO CORRECT CODIFIER ERRORS; AND AMENDING SECTION 16-2005, IDAHO CODE, TO PROVIDE FOR TERMINATION OF THE PARENT-CHILD RELATIONSHIP WHERE THE CHILD WAS CONCEIVED AS A RESULT OF CERTAIN CRIMINAL ACTS, WHERE THE SURVIVING PARENT HAS MURDERED OR INTENTIONALLY KILLED THE OTHER PARENT OR WHERE THE PARENT HAS BEEN INCARCERATED AND HAS NO POSSIBILITY OF PAROLE, TO PROVIDE THAT IN ANY OF THOSE CIRCUMSTANCES THERE IS A REBUTTABLE PRESUMPTION THAT TERMINATION IS IN THE BEST INTEREST OF THE CHILD AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 16-2002, Idaho Code, be, and the same is hereby amended to read as follows:

16-2002. DEFINITIONS. When used in this act, unless the text otherwise requires:

a. "Court" means the district court.

b. "Child" or "minor" means a person less than eighteen (18) years of age.

c. The singular includes the plural, the plural the singular, and the masculine the feminine, when consistent with the intent of the act.

d. "Neglected" used with respect to a child refers to those situations in which the child lacks proper support or parental care necessary for his health, morals, and well-being.

e. "Abuse" used with respect to a child refers to those situations in which physical cruelty in excess of that required for reasonable disciplinary purposes has been inflicted by a parent or other person in whom legal custody of the child has been vested.

f. "Legal custody" means status created by court order embodying the following rights and responsibilities:

(1) the right to physical possession of the child,

(2) the right and duty to protect, train and discipline the child, and

(3) the responsibility to provide the child with food, shelter, education and medical care,

provided that such rights and responsibilities shall be exercised subject to ~~to~~ the powers, rights, duties and responsibilities of the guardian of the person.

g. "Guardianship of the person" means those rights and duties imposed upon a person appointed as guardian of a minor under the laws of Idaho. It includes but is not necessarily limited either in number or kind to:

(1) the authority to consent to marriage, to enlistment in the armed forces of the United States, and to major medical, psychiatric and surgical treatment; to represent the minor in legal actions; and to make other decisions concerning the child of substantial legal significance;

(2) the authority and duty of reasonable visitation, except to the extent that such right of visitation~~s~~ has been limited by court order;

(3) the rights and responsibilities of legal custody except where legal custody has been vested in another individual or in an authorized child placement agency;

(4) when the parent and child relationship has been terminated by judicial decree with respect to the parents, or only living parent, or when there is no living parent, the authority to consent to the adoption of the child and to make any other decision concerning the child which the child's parents could make.

h. "Guardian ad litem" means a person appointed as such pursuant to law, by the court to protect the interest of a minor or an incompetent in a case before the court.

i. "Authorized agency" means the state department of health and welfare or a voluntary child placement agency licensed to care for and place children by the state department of health and welfare.

j. "Parent" means the birth or adoptive mother or the birth, adoptive, or legal father, whose parental rights have not been terminated.

k. "Parent and child relationship" includes all rights, privileges, duties and obligations existing between parent and child, including inheritance rights, and shall be construed to include adoptive parents.

l. "Protective supervision" means a legal status created by court order in proceedings not involving violations of the law but where the legal custody of the child is subject to change, whereby the child is permitted to remain in his home under the supervision of an authorized agency designated by the court and is subject to return to the court during the period of protective supervision.

m. "Parties" includes the child and the petitioners.

n. "Rape," (18-6101, Idaho Code); "lewd conduct with a minor child under sixteen," (18-1508, Idaho Code); "sexual abuse of a child under the age of sixteen years," (18-1506, Idaho Code); and "incest" (18-6602, Idaho Code) shall be defined as provided in the applicable provisions of title 18, Idaho Code, but for purposes of this chapter shall not include any circumstance where the parents of the child in question were married at the time of conception.

SECTION 2. That Section 16-2005, Idaho Code, be, and the same is hereby amended to read as follows:

16-2005. CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED. The court may grant an order terminating the relationship where it finds one or more of the following conditions exist:

a. The parent has abandoned the child by having willfully failed to maintain a normal parental relationship, including but not limited to reasonable support or regular personal contact; failure of the parent to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment under this section. Provided further, that where termination is sought by a grandparent seeking to adopt the child, willful failure of the parent to maintain a normal parental relationship as provided herein, without just cause, for six (6) months shall constitute prima facie evidence of abandonment.

b. The parent has neglected or abused the child. Neglect as used herein shall mean a situation in which the child lacks parental care necessary for his health, morals and well-being.

c. The presumptive parent is not the natural parent of the child.

d. The parent is unable to discharge parental responsibilities because of mental illness or mental deficiency, and there are reasonable grounds to believe the condition will continue for a prolonged indeterminate period and will be injurious to the health, morals or well-being of the child.

e. If termination is found to be in the best interest of the parent and child, where the petition has been filed by a parent or through an authorized agency, or interested party.

f. Where a consent to termination in the manner and form prescribed by this act has been filed by the parent(s) of the child in conjunction with a petition for adoption initiated by the person or persons proposing to adopt the child, or where the consent to termination has been filed by a licensed adoption agency, no subsequent hearing on the merits of the petition shall be held. Consents required by this act must be witnessed by a district judge or magistrate of a district court, or equivalent judicial officer of the state, where a person consenting resides or is present, whether within or without the county, and shall be substantially in the following form:

IN THE DISTRICT COURT OF THE .... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ....

In the Matter of the termination)
of the parental rights of)
.....)
.....)

I (we), the undersigned, being the .... of ...., do hereby give my (our) full and free consent to the complete and absolute termination of my (our) parental right(s), to the said ...., who was born ...., 19.., unto ...., hereby relinquishing completely and forever, all legal rights, privileges, duties and obligations, including all rights of inheritance to and from the said ...., and I (we) do hereby expressly waive my (our) right(s) to hearing on the petition to terminate my (our) parental relationship with the said ...., and respectfully request the petition be granted.

DATED: ...., 19...

.....

STATE OF IDAHO)
) ss.
COUNTY OF ....)

On this .... day of ...., 19.., before me, the undersigned ...., ... (Judge or magistrate) of the District court of the .... Judicial District of the state of Idaho, in and for the county of ...., personally appeared ...., known to me (or proved to me on the oath of ....) to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he (she, they) executed the same.

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

..... (District Judge or Magistrate)

g. Where consent to termination of parental rights is implied by reason of the failure of a putative father to establish paternity in the manner prescribed in section 16-1513, Idaho Code.

h. Unless a consent to termination signed by the parent(s) of the child has been filed by an adoption agency licensed in the state of Idaho, or unless the consent to termination was filed in conjunction with a petition for adoption of the child, the court shall hold a hearing.

~~h~~i. In the case of a father's parental relationship, where the father has failed to file notice of claim to paternity and willingness to assume responsibility as provided in section 16-1513(3), Idaho Code.

j. The court may grant termination as to a parent:

(1) Who caused the child to be conceived as a result of rape, incest, lewd conduct with a minor child under sixteen (16) years, or sexual abuse of a child under the age of sixteen (16) years, as defined in section 16-2002 n., Idaho Code;

(2) Who murdered or intentionally killed the other parent of the child; or

(3) Who has been incarcerated and has no possibility of parole.

There is a rebuttable presumption that termination of the parent-child relationship in any of the circumstances provided in subsection j. of this section is in the best interest of the child.

Approved March 20, 1996.

CHAPTER 366
(H.B. No. 789)

AN ACT

RELATING TO DEVELOPMENT IMPACT FEES; AMENDING SECTION 67-8203, IDAHO CODE, TO DEFINE GOVERNMENTAL ENTITY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-8204, IDAHO CODE, TO PROVIDE REQUIREMENTS OF THE DEVELOPMENT IMPACT FEE ORDINANCE; AMENDING CHAPTER 82, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-8204A, IDAHO CODE, TO AUTHORIZE INTERGOVERNMENTAL AGREEMENTS BETWEEN GOVERNMENTAL ENTITIES AND HIGHWAY DISTRICTS; AMENDING SECTION 67-8207, IDAHO CODE, TO GOVERN DETERMINATION OF PROPORTIONATE SHARE OF THE DEVELOPMENT IMPACT FEES; AMENDING SECTION 67-8208, IDAHO CODE, TO GOVERN PARTICIPATION IN PROJECT FUNDING FROM A STATE OR OTHER GOVERNMENTAL ENTITY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-8209, IDAHO CODE, TO PROVIDE FOR CREDITS OR REIMBURSEMENT; AMENDING SECTION 67-8210, IDAHO CODE, TO REQUIRE EXPENDITURE WITHIN THE TIME SPECIFIED AND PROVIDE EXCEPTIONS; AMENDING SECTION 67-8212, IDAHO CODE, TO REQUIRE PROVISION FOR MEDIATION; AND AMENDING SECTION 67-8214, IDAHO CODE, TO CLARIFY IMPACT OF THE CHAPTER.

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

SECTION 1. That Section 67-8203, Idaho Code, be, and the same is hereby amended to read as follows:

67-8203. DEFINITIONS. As used in this chapter:

(1) "Affordable housing" means housing affordable to families whose incomes do not exceed eighty percent (80%) of the median income for the service area or areas within the jurisdiction of the governmental entity.

(2) "Appropriate" means to legally obligate by contract or otherwise commit to use by appropriation or other official act of a governmental entity.

(3) "Capital improvements" means improvements with a useful life of ten (10) years or more, by new construction or other action, which increase the service capacity of a public facility.

(4) "Capital improvement element" means a component of a comprehensive plan adopted pursuant to chapter 65, title 67, Idaho Code, which component meets the requirements of a capital improvements plan pursuant to this chapter.

(5) "Capital improvements plan" means a plan adopted pursuant to this chapter that identifies capital improvements for which development impact fees may be used as a funding source.

(6) "Developer" means any person or legal entity undertaking development.

(7) "Development" means any construction or installation of a building or structure, or any change in use of a building or structure, or any change in the use, character or appearance of land, which creates additional demand and need for public facilities.

(8) "Development approval" means any written authorization from a governmental entity which authorizes the commencement of a development.

(9) "Development impact fee" means a payment of money imposed as a condition of development approval to pay for a proportionate share of the cost of system improvements needed to serve development. This term is also referred to as an impact fee in this chapter. The term does not include the following:

(a) A charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development;

(b) Connection or hookup charges;

(c) Availability charges for drainage, sewer, water, or transportation charges for services provided directly to the development; or

(d) Amounts collected from a developer in a transaction in which the governmental entity has incurred expenses in constructing capital improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the capital improvements, unless a written agreement is made pursuant to section 67-8209(3), Idaho Code, for credit or reimbursement.

(10) "Development requirement" means a requirement attached to a developmental approval or other governmental action approving or authorizing a particular development project including, but not limited to, a rezoning, which requirement compels the payment, dedication or contribution of goods, services, land, or money as a condition of approval.

(11) "Extraordinary costs" means those costs incurred as a result of an extraordinary impact.

(12) "Extraordinary impact" means an impact which is reasonably determined by the governmental entity to: (i) result in the need for system improvements, the cost of which will significantly exceed the sum of the development impact fees to be generated from the project or the sum agreed to be paid pursuant to a development agreement as allowed by section 67-8214(2), Idaho Code, or (ii) result in the need for system improvements which are not identified in the capital improvements plan.

(13) "Fee payer" means that person who pays or is required to pay a development impact fee.

(14) "Governmental entity" means any unit of local government ~~within a county of greater than two hundred thousand (200,000) population~~ that is empowered in this enabling legislation to adopt a development impact fee ordinance.

(15) "Impact fee." See development impact fee.

(16) "Land use assumptions" means a description of the service area and projections of land uses, densities, intensities, and population in the service area over at least a twenty (20) year period.

(17) "Level of service" means a measure of the relationship between service capacity and service demand for public facilities.

(18) "Manufactured 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) 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 subsection 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.

(19) "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.

(20) "Present value" means the total current monetary value of past, present, or future payments, contributions or dedications of goods, services, materials, construction or money.

(21) "Project" means a particular development on an identified parcel of land.

(22) "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project.

(23) "Proportionate share" means that portion of the cost of system improvements determined pursuant to section 67-8207, Idaho Code, which reasonably relates to the service demands and needs of the project.

(24) "Public facilities" means:

(a) Water supply production, treatment, storage and distribution facilities;

(b) Wastewater collection, treatment and disposal facilities;

(c) Roads, streets and bridges, including rights-of-way, traffic signals, landscaping and any local components of state or federal highways;

(d) Storm water collection, retention, detention, treatment and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;

(e) Parks, open space and recreation areas, and related capital improvements; and

(f) Public safety facilities, including law enforcement, fire, emergency medical and rescue and street lighting facilities.

(25) "Recreational vehicle" means a vehicular type unit primarily designed as temporary quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn

by another vehicle.

(26) "Service area" means any defined geographic area identified by a governmental entity or by intergovernmental agreement in which specific public facilities provide service to development within the area defined, on the basis of sound planning or engineering principles or both.

(27) "Service unit" means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements.

(28) "System improvements," in contrast to project improvements, means capital improvements to public facilities which are designed to provide service to a service area including, without limitation, the type of improvements described in section 50-1703, Idaho Code.

(29) "System improvement costs" means costs incurred for construction or reconstruction of system improvements, including design, acquisition, engineering and other costs attributable thereto, and also including, without limitation, the type of costs described in section 50-1702(h), Idaho Code, to provide additional public facilities needed to serve new growth and development. For clarification, system improvement costs do not include:

(a) Construction, acquisition or expansion of public facilities other than capital improvements identified in the capital improvements plan;

(b) Repair, operation or maintenance of existing or new capital improvements;

(c) Upgrading, updating, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;

(d) Upgrading, updating, expanding or replacing existing capital improvements to provide better service to existing development;

(e) Administrative and operating costs of the governmental entity unless such costs are attributable to development of the capital improvement plan, as provided in section 67-8208, Idaho Code; or

(f) Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the governmental entity to finance capital improvements identified in the capital improvements plan.

SECTION 2. That Section 67-8204, Idaho Code, be, and the same is hereby amended to read as follows:

67-8204. MINIMUM STANDARDS AND REQUIREMENTS FOR DEVELOPMENT IMPACT FEES ORDINANCES. Governmental entities which comply with the requirements of this chapter may impose by ordinance development impact fees as a condition of development approval on all developments.

(1) A development impact fee shall not exceed a proportionate share of the cost of system improvements determined in accordance with section 67-8207, Idaho Code. Development impact fees shall be based on actual system improvement costs or reasonable estimates of such costs.

(2) A development impact fee shall be calculated on the basis of levels of service for public facilities adopted in the development impact fee ordinance of the governmental entity that are applicable to existing development as well as new growth and development. The construction, improvement, expansion or enlargement of new or existing public facilities for which a development impact fee is imposed must be attributable to the capacity demands generated by the new development.

(3) A development impact fee ordinance shall specify the point in the development process at which the development impact fee shall be collected. The development impact fee may be collected no earlier than the commencement of construction of the development, or the issuance of a building permit or a manufactured home installation permit, or as may be agreed by the developer and the governmental entity.

(4) A development impact fee ordinance shall be adopted in accordance with the procedural requirements of section 67-8206, Idaho Code.

(5) A development impact fee ordinance shall include a provision permitting individual assessments of development impact fees under guidelines established in the ordinance.

(6) A development impact fee ordinance shall provide a process whereby a developer ~~may~~ shall receive, upon request, a written certification of the development impact fee schedule or individual assessment for a particular project, which shall establish the development impact fee for a period of one (1) year from the date of the certification. The certification shall include an explanation of the calculation of the impact fee including an explanation of factors considered under section 67-8207, Idaho Code. The certification shall also specify the system improvement(s) for which the impact fee is intended to be used.

(7) A development impact fee ordinance shall include a provision for credits in accordance with the requirements of section 67-8209, Idaho Code.

(8) A development impact fee ordinance shall include a provision prohibiting the expenditure of development impact fees except in accordance with the requirements of section 67-8210, Idaho Code.

(9) A development impact fee ordinance may provide for the imposition of a development impact fee for system improvement costs incurred subsequent to adoption of the ordinance to the extent that new growth and development will be served by the system improvements.

(10) A development impact fee ordinance may exempt all or part of a particular development project from development impact fees provided that such project is determined to create affordable housing, provided that the public policy which supports the exemption is contained in the governmental entity's comprehensive plan and provided that the exempt development's proportionate share of system improvements is funded through a revenue source other than development impact fees.

(11) A development impact fee ordinance shall provide that development impact fees shall only be spent for the category of system improvements for which the fees were collected and either within or for the benefit of the service area in which the project is located.

(12) A development impact fee ordinance shall provide for a refund of development impact fees in accordance with the requirements of section 67-8211, Idaho Code.

(13) A development impact fee ordinance shall establish for a procedure for timely processing of applications for determination by the governmental entity regarding development impact fees applicable to a project, individual assessment of development impact fees, credits or reimbursements to be allowed or paid under section 67-8209, Idaho Code, and extraordinary impact.

(14) A development impact fee ordinance shall provide for appeals regarding development impact fees in accordance with the requirements of section 67-8212, Idaho Code.

(15) A development impact fee ordinance must provide a detailed description of the methodology by which costs per service unit are determined. The following methodologies shall be acceptable:

(a) The development impact fee per service unit may not exceed the amount determined by dividing the costs of the capital improvements described in section 67-8208(1)(f), Idaho Code, by the total number of projected service units described in section 67-8208(1)(g), Idaho Code. If the number of new service units projected over a reasonable period of time is less than the total number of new service units shown by the approved land use assumptions at full development of the service area, the maximum impact fee per service unit shall be calculated by dividing the costs of the part of the capital improvements necessitated by and attributable to the projected new service units described in section 67-8208(1)(g), Idaho Code, by the total projected new service units described in that section.

(b) An alternative methodology may be used by a governmental entity provided that the governmental entity can demonstrate that such alternative methodology accurately calculates the proportionate share of the impact of the proposed development on the capacity of system improvements in terms of generally accepted engineering and planning principles.

(16) A development impact fee ordinance shall include a schedule of development impact fees for various land uses per unit of development. The ordinance shall provide that a developer shall have the right to elect to pay a project's proportionate share of system improvement costs by payment of development impact fees according to the fee schedule as full and complete payment of the development project's proportionate share of system improvement costs, except as provided in section 67-8214(3), Idaho Code.

(17) After payment of the development impact fees or execution of an agreement for payment of development impact fees, additional development impact fees or increases in fees may not be assessed unless the number of service units increases or the scope or schedule of the development changes. In the event of an increase in the number of service units or schedule of the development changes, the additional development impact fees to be imposed are limited to the amount attributable to the additional service units or change in scope of the development.

(18) No system for the calculation of development impact fees shall be adopted which subjects any development to double payment of impact fees.

(19) A development impact fee ordinance shall exempt from development impact fees the following activities:

(a) Rebuilding the same amount of floor space of a structure which was destroyed by fire or other catastrophe, providing the structure is rebuilt and ready for occupancy within two (2) years of its destruction;

(b) Remodeling or repairing a structure which does not increase the number of service units;

(c) Replacing a residential unit, including a manufactured home, with another residential unit on the same lot, provided that the number of service units does not increase;

(d) Placing a temporary construction trailer or office on a lot;

(e) Constructing an addition on a residential structure which does not increase the number of service units; and

(f) Adding uses that are typically accessory to residential uses, such as tennis courts or clubhouse, unless it can be clearly demonstrated that the use creates a significant impact on the capacity of system improvements.

(20) A development impact fee will be assessed for installation of a modular building, manufactured home or recreational vehicle unless the fee payer can demonstrate by documentation such as utility bills and tax records, either:

(a) That a modular building, manufactured home or recreational vehicle was legally in place on the lot or space prior to the effective date of the development impact fee ordinance; or

(b) That a development impact fee has been paid previously for the installation of a modular building, manufactured home or recreational vehicle on that same lot or space.

(21) A development impact fee ordinance shall include a process for dealing with a project which has extraordinary impacts.

(22) A development impact fee ordinance shall provide for the calculation of a development impact fee in accordance with generally accepted accounting principles. A development impact fee shall not be deemed invalid because payment of the fee may result in an incidental benefit to owners or developers within the service area other than the person paying the fee.

(23) A development impact fee ordinance shall include a description of acceptable levels of service for system improvements.

SECTION 3. That Chapter 82, 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 67-8204A, Idaho Code, and to read as follows:

67-8204A. INTERGOVERNMENTAL AGREEMENTS. Governmental entities as defined in section 67-8203(14), Idaho Code, which are jointly affected by development are authorized to enter into intergovernmental agreements with each other or with highway districts for the purpose of developing joint plans for capital improvements or for the purpose of agreeing to collect and expend development impact fees for system improvements, or both, provided that such agreement complies with any applicable state laws. Governmental entities are also authorized to enter into agreements with the Idaho transportation department for the expenditure of development impact fees pursuant to a developer's agreement under section 67-8214, Idaho Code.

SECTION 4. That Section 67-8207, Idaho Code, be, and the same is hereby amended to read as follows:

67-8207. PROPORTIONATE SHARE DETERMINATION. (1) All development impact fees shall be based on a reasonable and fair formula or method under which t~~T~~he development impact fee imposed ~~must~~ does not exceed a proportionate share of the costs incurred or ~~the costs that will~~ to be incurred by the governmental entity in the provision of system improvements to serve the new development. The proportionate share is the cost attributable to the new development after the governmental entity considers the following: (i) any appropriate credit, offset or contribution of money, dedication of land, or construction of system improvements; (ii) payments reasonably anticipated to be made by or as a result of a new development in the form of user fees, debt service payments, or taxes which are dedicated for system improvements for which development impact fees would otherwise be imposed; and (iii) all other available sources of funding such system improvements.

(2) In determining the proportionate share of the cost of system improvements to be paid by the developer, the following factors shall be considered by the governmental entity imposing the development impact fee:

(a) The cost of existing system improvements within the service area or areas;

(b) The means by which existing system improvements have been financed;

(c) The extent to which the new development will contribute to the cost of system improvements through taxation, assessment, or developer or landowner contributions, or has previously contributed to the cost of system improvements through developer or landowner contributions.

(d) The extent to which the new development is required to contribute to the cost of existing system improvements in the future.

(e) The extent to which the new development should be credited for providing system improvements, without charge to other properties within the service area or areas;

(f) Extraordinary costs, if any, incurred in serving the new development;

(g) The time and price differential inherent in a fair comparison of fees paid at different times; and

(h) The availability of other sources of funding system improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers, and special taxation. The governmental entity shall develop a plan for alternative sources of revenue.

SECTION 5. That Section 67-8208, Idaho Code, be, and the same is hereby amended to read as follows:

67-8208. CAPITAL IMPROVEMENTS PLAN. (1) Each governmental entity intending to impose a development impact fee shall prepare a capital improvements plan. That portion of the cost of preparing a capital improvements plan which is attributable to determining the development impact fee may be funded by a one (1) time ad valorem levy exempt from

the provisions of sections 63-2225 and 63-923, Idaho Code, which does not exceed two one-hundredths per cent (.02%) of market value or by a surcharge imposed by ordinance on the collection of a development impact fee which surcharge does not exceed the development's proportionate share of the cost of preparing the plan. For governmental entities required to undertake comprehensive planning pursuant to chapter 65, title 67, Idaho Code, such capital improvements plan shall be prepared and adopted according to the requirements contained in the local planning act, section 67-6509, Idaho Code, and shall be included as an element of the comprehensive plan. The capital improvements plan shall be prepared by qualified professionals in fields relating to finance, engineering, planning and transportation. The persons preparing the plan shall consult with the development impact fee advisory committee.

The capital improvements plan shall contain all of the following:

(a) A general description of all existing public facilities and their existing deficiencies within the service area or areas of the governmental entity and a reasonable estimate of all costs and a plan to develop the funding resources related to curing the existing deficiencies including, but not limited to, the upgrading, updating, improving, expanding or replacing of such facilities to meet existing needs and usage;

(b) A commitment by the governmental entity to use other available sources of revenue to cure existing system deficiencies where practical;

(c) An analysis of the total capacity, the level of current usage, and commitments for usage of capacity of existing capital improvements, which shall be prepared by a qualified professional planner or by a qualified engineer licensed to perform engineering services in this state;

(d) A description of the land use assumptions by the government entity;

(e) A definitive table establishing the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of system improvements and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, agricultural and industrial;

(f) A description of all system improvements and their costs necessitated by and ~~and~~ attributable to new development in the service area based on the approved land use assumptions, to provide a level of service not to exceed the level of service adopted in the development impact fee ordinance;

(g) The total number of service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(h) The projected demand for system improvements required by new service units projected over a reasonable period of time not to exceed twenty (20) years~~.~~;

(i) Identification of all sources and levels of funding available to the governmental entity for the financing of the system improvements;

(j) If the proposed system improvements include the improvement of public facilities under the jurisdiction of the state of Idaho or another governmental entity, then an agreement between governmental entities shall specify the ~~proportionate~~ reasonable share of funding by each unit, provided the ~~agreement shall not permit expenditure of development impact fees by a governmental entity which is not authorized to imposed development impact fees nor shall the governmental entity authorized to impose development impact fees assume more than its proportionate share of funding joint improvements~~ governmental entity authorized to impose development impact fees shall not assume more than its reasonable share of funding joint improvements, nor shall the agreement permit expenditure of development impact fees by a governmental entity which is not authorized to impose development impact fees unless such expenditure is pursuant to a developer agreement under section 67-8214, Idaho Code; and

(k) A schedule setting forth estimated dates for commencing and completing construction of all improvements identified in the capital improvements plan.

(2) The governmental entity imposing a development impact fee shall update the capital improvements plan at least once every five (5) years. The five (5) year period shall commence from the date of the original adoption of the capital improvements plan. The updating of the capital improvements plan shall be made in accordance with procedures set forth in section 67-8206, Idaho Code.

(3) The governmental entity must annually adopt a capital budget.

SECTION 6. That Section 67-8209, Idaho Code, be, and the same is hereby amended to read as follows:

67-8209. CREDITS. (1) In the calculation of development impact fees for a particular project, credit or reimbursement shall be given for the present value of any construction of system improvements or contribution or dedication of land or money required by a governmental entity from a developer for system improvements of the category for which the development impact fee is being collected. Credit or reimbursement shall not be given for project improvements.

(2) ~~A~~ If a developer ~~who~~ is required to construct, fund or contribute system improvements in excess of the development ~~impact fees which would otherwise have been paid for the development project~~ project's proportionate share of system improvement costs, the developer shall receive a credit on future impact fees or be reimbursed at the developer's choice for such excess construction, funding or contribution from development impact fees paid by future development ~~located in the service area which is benefited by such improvements~~ which impacts the system improvements constructed, funded or contributed by the developer(s) or fee payer.

(3) If credit or reimbursement is due to the developer pursuant to this section, the ~~parties~~ governmental entity shall enter into a written agreement with the fee payer, negotiated in good faith, prior to the construction, funding or contribution. The agreement shall provide for the amount of credit or the amount, time and form of reimbursement.

SECTION 7. That Section 67-8210, Idaho Code, be, and the same is hereby amended to read as follows:

67-8210. EARMARKING AND EXPENDITURE OF COLLECTED DEVELOPMENT IMPACT FEES. (1) An ordinance imposing development impact fees shall provide that all development impact fee funds shall be maintained in one (1) or more interest-bearing accounts within the capital projects fund. Accounting records shall be maintained for each category of system improvements and the service area in which the fees are collected. Interest earned on development impact fees shall be considered funds of the account on which it is earned, and not funds subject to section 57-127, Idaho Code, and shall be subject to all restrictions placed on the use of development impact fees under the provisions of this chapter.

(2) Expenditures of development impact fees shall be made only for the category of system improvements and within or for the benefit of the service area for which the development impact fee was imposed as shown by the capital improvements plan and as authorized in this chapter. Development impact fees shall not be used for any purpose other than system improvement costs to create additional improvements to serve new growth.

(3) As part of its annual audit process, a governmental entity shall prepare an annual report describing the amount of all development impact fees collected, appropriated, or spent during the preceding year by category of public facility and service area.

(4) Collected development impact fees must be expended within ~~ten (10)~~ five (5) years from the date they were collected, on a first-in, first-out (FIFO) basis, except that the development impact fees collected for wastewater collection, treatment and disposal and drainage facilities must be expended within twenty (20) years. Any funds not expended within the prescribed times shall be refunded pursuant to section 67-8211, Idaho Code. A governmental entity may hold the fees for longer than five (5) years if it identifies, in writing:

(a) A reasonable cause why the fees should be held longer than five (5) years; and

(b) An anticipated date by which the fees will be expended but in no event greater than eight (8) years from the date they were collected.

SECTION 8. That Section 67-8212, Idaho Code, be, and the same is hereby amended to read as follows:

67-8212. APPEALS. (1) A governmental entity which adopts a development impact fee ordinance shall provide for administrative appeals by the developer or fee payer from any discretionary action or inaction by or on behalf of the governmental entity.

(2) A fee payer may pay a development impact fee under protest in order to obtain a development approval or building permit. A fee payer making such payment shall not be estopped from exercising the right of appeal provided in this chapter, nor shall such fee payer be estopped from receiving a refund of any amount deemed to have been illegally collected.

(3) A governmental entity which adopts a development impact fee

ordinance shall provide for mediation by a qualified independent party, upon voluntary agreement by the fee payer and the governmental entity, to address a disagreement related to the impact fee for proposed development. The ordinance shall provide that mediation may take place at any time during the appeals process and participation in mediation does not preclude the fee payer from pursuing other remedies provided for in this section. The ordinance shall provide that mediation costs will be shared equally by the fee payer and the governmental entity.

SECTION 9. That Section 67-8214, Idaho Code, be, and the same is hereby amended to read as follows:

67-8214. OTHER POWERS AND RIGHTS NOT AFFECTED. (1) Nothing in this chapter shall prevent a governmental entity from requiring a developer to construct reasonable project improvements in conjunction with a development project.

(2) Nothing in this chapter shall be construed to prevent or prohibit private agreements between property owners or developers, the Idaho transportation department and governmental entities in regard to the construction or installation of system improvements or providing for credits or reimbursements for system improvement costs incurred by a developer including interproject transfers of credits or providing for reimbursement for project improvements which are used or shared by more than one (1) development project. If it can be shown that a proposed development has a direct impact on a public facility under the jurisdiction of the Idaho transportation department, then the agreement shall include a provision for the allocation of impact fees collected from the developer for the improvement of the public facility by the Idaho transportation department.

(3) Nothing in this chapter shall obligate a governmental entity to approve development which results in an extraordinary impact.

(4) Nothing in this chapter shall obligate a governmental entity to approve any development request which may reasonably be expected to reduce levels of service below minimum acceptable levels established in the development impact fee ordinance.

(5) Nothing in this chapter shall be construed to create any additional right to develop real property or diminish the power of counties or cities in regulating the orderly development of real property within their boundaries.

(6) Nothing in this chapter shall work to limit the use by governmental entities of the power of eminent domain or supersede or conflict with requirements or procedures authorized in the Idaho Code for local improvement districts or general obligation bond issues.

(7) Nothing herein shall restrict or diminish the power of a governmental entity to annex property into its territorial boundaries or exclude property from its territorial boundaries upon request of a developer or owner, or to impose reasonable conditions thereon, including the recovery of project or system improvement costs required as a result of such voluntary annexation.

Approved March 20, 1996.

CHAPTER 367
(H.B. No. 596)

AN ACT

RELATING TO A MISSING PERSONS CLEARINGHOUSE; AMENDING CHAPTER 45, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-4512, IDAHO CODE, TO DIRECT THE DEPARTMENT OF LAW ENFORCEMENT TO ESTABLISH A THREE YEAR PILOT PROJECT IN THE DEPARTMENT OF LAW ENFORCEMENT TO BE KNOWN AS THE MISSING PERSONS CLEARINGHOUSE, TO PROVIDE THAT THE CLEARINGHOUSE SHALL BE ESTABLISHED BY JULY 1, 1996, TO PROVIDE FOR THE APPOINTMENT OF A COORDINATOR, TO PROVIDE FOR PROGRAMS AND ANNUAL REPORTS AND TO PROVIDE FOR EDUCATION OF TEACHERS AND STUDENTS IN THE STATE'S SCHOOL DISTRICTS REGARDING THE MISSING CHILD PROBLEM IN THE STATE; AND TO PROVIDE A SUNSET CLAUSE.

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

SECTION 1. That Chapter 45, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known as Section 18-4512, Idaho Code, and to read as follows:

18-4512. MISSING PERSONS CLEARINGHOUSE. (1) The department of law enforcement is hereby directed to establish a three (3) year pilot project to be known as the missing persons clearinghouse. The clearinghouse shall be established as of July 1, 1996, as a resource center of information and assistance regarding missing and unidentified persons.

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

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

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

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

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

(e) Publishing a directory of missing persons;

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

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

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

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

(4) The director of the department of law enforcement shall sub-

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

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

SECTION 2. This act shall be void and of no further force and effect on and after June 30, 1999.

Approved March 20, 1996.

CHAPTER 368
(H.B. No. 864)

AN ACT

RELATING TO DISASTER RELIEF AND EXTENSIONS OF TIME FOR FILINGS AND PAYMENTS RELATING TO TAXES; AMENDING CHAPTER 5, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-513d, IDAHO CODE, TO PROVIDE THE STATE TAX COMMISSION WITH AUTHORITY TO GRANT TO TAXPAYERS AFFECTED BY DISASTER AN EXTENSION OF TIME TO FILE DOCUMENTS AND PAY ANY TAX ADMINISTERED OR ENFORCED BY THE COMMISSION; AMENDING CHAPTER 5, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2224, IDAHO CODE, TO PROVIDE BOARDS OF COUNTY COMMISSIONERS IN CERTAIN DISASTER AFFECTED COUNTIES WITH AUTHORITY TO GRANT TO TAXPAYERS EFFECTED BY DISASTER AN EXTENSION OF TIME TO MAKE FILE DOCUMENTS AND PAY PROPERTY TAXES; REPEALING SECTIONS 63-513d AND 63-2224, IDAHO CODE; DECLARING AN EMERGENCY, PROVIDING APPLICATION AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 5, 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 63-513d, Idaho Code, and to read as follows:

63-513d. FILING AND PAYMENT EXTENSIONS AS DISASTER RELIEF. (1) The state tax commission may grant an extension of time for any filing, or any payment, which is required under any tax law administered or enforced by the state tax commission, to those persons whose ability to timely comply with their filing or payment requirement was

adversely affected by the severe storms and flooding that occurred in those Idaho counties and reservations set forth in the presidential declaration of major disaster for the state of Idaho, dated February 11, 1996.

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

(3) No extension granted under this section shall be for a period in excess of one (1) year, nor shall any extension apply to filings or payments due before February 1, 1996.

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

(5) Any rule, activity, procedure or form adopted by the commission to facilitate the provisions of this section, are exempt from the provisions of chapter 52, title 67, Idaho Code.

SECTION 2. That Chapter 22, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-2224, Idaho Code, and to read as follows:

63-2224. TAX EXTENSIONS AS DISASTER RELIEF. (1) The board of county commissioners of any Idaho county set forth in the presidential declaration of major disaster for the state of Idaho, dated February 11, 1996, may grant an extension of time for any filings or payments required under section 63-105DD, 63-121, 63-203 or 63-1102, Idaho Code, to those persons whose ability to timely comply with their filing or payment requirement was adversely affected by the severe storms and flooding that occurred in those Idaho counties as set forth in that presidential declaration.

(2) Before granting any extension the board of county commissioners shall provide a procedure for affected taxpayers to justify the extension and provide such other information as the board may require to support the taxpayer's application.

(3) No extension granted under this section shall be for a period in excess of sixty (60) days, nor shall any extension apply to filings or payments due before February 1, 1996.

(4) In all cases where the board has granted an extension under this section, payment of the tax shall not be subject to any late filing penalty or interest if payment of the tax is made on or before the extended due date. Failure to make payments on or before the extended due date will thereafter cause the imposition of penalty and interest.

SECTION 3. That Sections 63-513d and 63-2224, Idaho Code, be, and

the same are hereby repealed.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after its passage and approval. The authority granted herein to extend time shall terminate and shall be null, void and of no force and effect on and after July 1, 1996, but any extension granted within such period shall remain effective until it expires. Section 3 of this act shall be in full force and effect on and after July 1, 1996.

Approved March 20, 1996.

CHAPTER 369
(H.B. No. 561)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-115, IDAHO CODE, TO CLARIFY AND REVISE THE MANAGEMENT OF THE BIG GAME SECONDARY DEPREDATION ACCOUNT.

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

SECTION 1. That Section 36-115, Idaho Code, be, and the same is hereby amended to read as follows:

36-115. BIG GAME SECONDARY DEPREDATION ACCOUNT. (a) The big game secondary depredation account is hereby created in the state treasury. Moneys in the account are subject to appropriation for the purposes recited in section 36-1108(b), Idaho Code, section 36-114(d), Idaho Code, section 36-1109 and section 36-1110, Idaho Code. Moneys in the account shall be invested as provided in section 67-1210, Idaho Code, and interest earned on investment of idle moneys in the account shall be paid to the account. The big game secondary depredation account shall be under the administrative direction of the ~~director of the department of administration~~ state controller.

(b) In addition to any moneys appropriated to the account from other sources, the state controller shall transfer the earned interest not to exceed two hundred and fifty thousand dollars ($250,000) from the fish and game account to the big game secondary depredation account each fiscal year until a total of one million two hundred fifty thousand dollars ($1,250,000) has been transferred to the account.

(c) The principal amount in the account shall not be appropriated, but only the interest earned on investment of the moneys in the account shall be available for appropriation. The ~~director of the department of administration~~ state controller shall annually report to the legislature, the division of financial management, ~~the state controller,~~ the director of the department of agriculture and the director of the department of fish and game the amount of interest earnings and the availability of such earnings for appropriation. However,

should the balance in the account ever exceed three million dollars ($3,000,000), interest earnings that exceed the amount appropriated for any fiscal year shall be transferred to the fish and game set-aside account for habitat rehabilitation. Transferred funds shall be spent pursuant to an appropriation for the set-aside account.

(d) Any payment for damages pursuant to sections 36-1108(b) and 36-114(d), Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director of the department of ~~administration~~ fish and game may order not more than one-third (1/3) of the amount of the approved claim that is to be paid from the big game secondary depredation account to be paid immediately, if, in the judgment of the director ~~of--the--department--of administration~~, such payment is within the estimated total claims liability for that fiscal year from the big game secondary depredation account.

(B) The balance of all unpaid approved claim amounts, including claims submitted under the provisions of sections 36-1109 and 36-1110, Idaho Code, shall be accumulated to a total as of June 30. If the balance in the big game secondary depredation account appropriation is sufficient to pay the balance of all approved claims, the director ~~of--the--department--of--administration~~ shall ~~promptly~~ pay them. If the balance is not sufficient to pay ~~the--balance--of~~ all approved claims, the director ~~of--the--department-of-administration~~ shall ~~pay~~ authorize a proportionate ~~share~~ amount to be paid to each claimant.

(C) The director ~~of-the-department-of-administration~~ shall encumber the balance of moneys appropriated from the big game secondary depredation account, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following conditions and requirements apply:

(A) The amount of one thousand dollars ($1,000) must be deducted from each such statement. This deductible is a net loss to the owner or lessee, and will not be compensated for from either the big game primary depredation account or from the big game secondary depredation account, but the owner or lessee is required to absorb only a single one thousand dollar ($1,000) deductible per claim, whether the claim is paid solely from the big game primary depredation account or from both depredation accounts.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsec-

tion.

(e) Any claim for damages pursuant to section 36-1109, Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director of the department of ~~administration~~ fish and game may order that not more than one-third (1/3) of the amount of the approved claim to be paid immediately, if, in the judgment of the director ~~of the department of administration~~, such payment is within the estimated total claims liability for that fiscal year from the big game secondary depredation account.

(B) The balance of all unpaid approved claim amounts shall be accumulated to a total as of June 30. If the balance in the big game secondary depredation account appropriation is sufficient to pay all approved claims, the director ~~of the department of administration~~ shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director ~~of the department of administration~~ shall pay a proportionate share to each claimant.

(C) The director ~~of the department of administration~~ shall encumber the balance of the appropriation, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following conditions and requirements apply:

(A) The amount of one thousand dollars ($1,000) must be deducted from each such statement. This deductible is a net loss to the owner or caretaker, and will not be compensated for from the big game secondary depredation account.

(B) The total amount of all claims that may be paid from the big game secondary depredation account for domestic sheep or cattle losses shall not exceed twenty-five thousand dollars ($25,000) in any one (1) fiscal year.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

(f) Any claim for damages to forage pursuant to section 36-1110, Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director of the department of ~~administration~~ fish and game may order not more than one-third (1/3) of the amount of the approved claim to be paid immediately, if, in the judgment of the director ~~of the department of administration~~, such payment is within the estimated total claims lia-

bility for that fiscal year from the big game secondary depredation account.

(B) The balance of all unpaid approved claim amounts shall be accumulated to a total as of June 30. If the balance in the big game secondary depredation account appropriation is sufficient to pay all approved claims, the director ~~of the department of administration~~ shall ~~promptly~~ pay them. If the balance is not sufficient to pay ~~the balance of~~ all approved claims, the director ~~of the department of administration~~ shall ~~pay~~ authorize a proportionate ~~share~~ amount to be paid to each claimant.

(C) The director ~~of the department of administration~~ shall encumber the balance of the appropriation, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For such statement, the following conditions and requirements apply:

(A) The amount of one thousand dollars ($1,000) must be deducted from each statement. This deductible is a net loss to the owner or lessee, and will not be compensated for from the big game secondary depredation account.

(B) The total amount of all claims for damages to forage that may be paid from the big game secondary depredation account shall not exceed twenty-five per cent (25%) of the amount of interest earned from investments of moneys in that account in any one (1) fiscal year.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

Approved March 20, 1996.

CHAPTER 370
(H.B. No. 670)

AN ACT

RELATING TO MOTOR VEHICLE RULES OF THE ROAD; AMENDING SECTION 49-104, IDAHO CODE, TO DEFINE "CONSTRUCTION DANGER ZONE" AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 6, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-657, IDAHO CODE, TO PROVIDE FOR ESTABLISHMENT OF A CONSTRUCTION DANGER ZONE SPEED LIMIT AND TO PROVIDE A PENALTY.

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

SECTION 1. That Section 49-104, Idaho Code, be, and the same is

hereby amended to read as follows:

49-104. DEFINITIONS -- C.

(1) "Cancellation of driver's license" means the annulment or termination by formal action of the department of a person's driver's license because of some error or defect in the driver's license or because the licensee is no longer entitled to the driver's license, but the cancellation of a driver's license is without prejudice and application for a new driver's license may be made at any time after cancellation.

(2) "Caravaning" means the transportation of any motor vehicle into, out of, or within the state operating on its own wheels or in tow for the purpose of sale or offer of sale by any agent, dealer, manufacturer's representative, purchaser, or prospective purchaser, regardless of residence unless the motor vehicle is licensed by the state of Idaho, or is owned by an automobile dealer, duly licensed as a dealer by this state. It shall also be considered as the transportation of property for hire by a motor vehicle upon the highways of this state.

(3) "Certificate of liability insurance" means a certificate of liability insurance issued by an insurance company authorized to do business in this state or a certificate of liability insurance issued by the department of insurance which demonstrates current insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance or use of a motor vehicle described in the certificate in an amount not less than that required by section 49-1212, Idaho Code, and also demonstrates the current existence of any other coverage required by title 41, Idaho Code, or a certificate of self-insurance issued pursuant to law for each motor vehicle to be registered. A certificate of liability insurance shall contain the information required by the department of insurance, including the name and address of the owner of the motor vehicle and a description of the motor vehicle including identification number if there is one, or a statement that all vehicles owned by a person or entity are covered by insurance, the inception date of coverage, and the name of the insurer. "Certificate of liability insurance" may also include the original contract of liability insurance or a true copy, demonstrating the current existence of the liability insurance described above.

(4) "Chauffeur" means every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public contract or common carrier of persons or property.

(5) "Commercial coach." (See section 39-4105, Idaho Code)

(6) "Commercial driver's license" means any class A, class B or class C driver's license as defined in section 49-105, Idaho Code.

(7) "Commercial driver license information system (CDLIS)" is the information system established to serve as a clearinghouse for locating information related to the licensing and identification of motor vehicle drivers.

(8) "Commercial driver training school" means a business enterprise conducted by an individual, association, partnership, or corpo-

ration, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, and charging a consideration or tuition for such services.

(9) "Commercial vehicle" or "commercial motor vehicle." (See "Vehicle", section 49-123, Idaho Code)

(10) "Construction danger zone" means a construction or maintenance area that is located on or adjacent to a highway and marked by appropriate warning signs.

(11) "Controlled substance" means any substance so classified under ~~S~~section 102(6) of the controlled substances act (21 U.S.C. 802(6)), and includes all substances listed on schedules I through V, of 21, CFR part 1308, as they may be revised from time to time.

(1~~1~~2) "Conviction" means the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(1~~2~~3) "Crosswalk" means:

(a) That part of a highway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable highway; and in the absence of a sidewalk on one side of the highway, that part of a highway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline.

(b) Any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

SECTION 2. That Chapter 6, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-657, Idaho Code, and to read as follows:

49-657. CONSTRUCTION DANGER ZONE SPEED LIMITS -- PENALTY. (1) No person shall operate a vehicle in excess of the posted maximum speed limit established for a highway construction danger zone when the construction danger zone is designated by appropriately placed signs indicating: construction danger zone; the reduced speed limit; and notice of an enhanced penalty for exceeding the reduced speed limit.

(2) Violation of the provisions of this section shall be an infraction punishable by a fixed penalty of fifty dollars ($50.00).

Approved March 20, 1996.

CHAPTER 371
(H.B. No. 416)

AN ACT

RELATING TO THE COMMERCIAL DRIVER'S LICENSE PROGRAM; AMENDING SECTION 49-105, IDAHO CODE, TO REDEFINE PROVISIONS OF DRIVER'S LICENSES FOR CLASSES A, B AND C, TO REDEFINE PROVISIONS OF DRIVER'S LICENSE ENDORSEMENTS FOR ENDORSEMENT H AND ENDORSEMENT N AND TO MAKE A

TECHNICAL CORRECTION; AMENDING SECTION 49-116, IDAHO CODE, TO REDEFINE "OUT-OF-SERVICE ORDER"; AMENDING SECTION 49-120, IDAHO CODE, TO DEFINE "SKILLS TEST" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-240, IDAHO CODE, TO PROVIDE THAT FORFEITURE OF A BOND FOR A TRAFFIC OFFENSE ARISING OUT OF THE OPERATION OF A COMMERCIAL VEHICLE SHALL BE TREATED AS A CONVICTION; AMENDING SECTION 49-301, IDAHO CODE, TO PROHIBIT OPERATION OF A MOTOR VEHICLE IN VIOLATION OF LICENSE RESTRICTIONS AND TO REQUIRE NEW RESIDENTS WITH A COMMERCIAL DRIVER'S LICENSE ISSUED BY ANOTHER JURISDICTION TO OBTAIN LICENSURE FROM IDAHO WITHIN THIRTY DAYS; AMENDING SECTION 49-303, IDAHO CODE, TO CLARIFY THAT PROOF OF FINANCIAL RESPONSIBILITY INFORMATION IS ONLY REQUIRED FOR VERIFICATION PURPOSES AND TO PROVIDE THAT IDAHO SHALL NOT ISSUE ANY MOTOR VEHICLE LICENSE TO A NONRESIDENT; AMENDING SECTION 49-305, IDAHO CODE, TO DELETE OBSOLETE INSTRUCTION PERMIT PROVISIONS, TO PROVIDE PROPER TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-306, IDAHO CODE, TO DELETE CERTAIN INFORMATION REQUIRED FOR ISSUANCE OF A LICENSE AND TO PROVIDE FOR VERIFICATION OF CERTAIN APPLICATION INFORMATION; AMENDING SECTION 49-313, IDAHO CODE, TO CLARIFY SKILLS TESTING OF DRIVER'S LICENSE APPLICANTS; AMENDING SECTION 49-318, IDAHO CODE, TO DELETE CERTAIN INFORMATION REQUIRED FOR ISSUANCE OF A DUPLICATE LICENSE; AMENDING SECTION 49-319, IDAHO CODE, TO CLARIFY PROVISIONS RELATING TO EXPIRATION AND RENEWAL OF A DRIVER'S LICENSE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-320, IDAHO CODE, TO PROVIDE NOTIFICATION REQUIREMENTS OF LICENSED DRIVERS UPON CHANGE OF ADDRESS AND TO PROVIDE LEGAL NOTIFICATION BY THE DEPARTMENT; AMENDING SECTION 49-326, IDAHO CODE, TO PROVIDE FOR NOTIFICATION BY THE DEPARTMENT TO THE LICENSEE UPON SUSPENSION, REVOCATION, CANCELLATION OR DISQUALIFICATION OF A LICENSE; AMENDING SECTION 49-335, IDAHO CODE, TO PROVIDE PENALTIES FOR VIOLATION OF OUT-OF-SERVICE ORDERS BY DRIVERS OF COMMERCIAL VEHICLES; AND AMENDING SECTION 49-337, IDAHO CODE, TO REQUIRE THE OPERATOR OF A COMMERCIAL VEHICLE WITH AN IDAHO LICENSE TO NOTIFY THE DEPARTMENT OF A CONVICTION FOR ANY TRAFFIC VIOLATION OCCURRING IN ANOTHER STATE.

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

SECTION 1. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

49-105. DEFINITIONS -- D.

(1) "Dealer" means every person in the business of buying, selling or exchanging five (5) or more new or used vehicles, new or used motorcycles, snow machines or motor scooters, travel trailers, all-terrain vehicles or motor homes in any calendar year, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. No insurance company, bank, finance company, public utilities company, or other person coming into possession of any vehicle, as an incident to its regular business, who shall sell that vehicle under any contractual rights it may have, shall be considered a dealer. See also "salvage pool", section 49-120,

Idaho Code.

(2) "Dealer's selling agreement." (See "Franchise", section 49-107, Idaho Code)

(3) "Department" means the Idaho transportation department acting directly or through its duly authorized officers and agents, except in chapters 6 and 9, title 49, Idaho Code, where the term means the Idaho department of law enforcement, except as otherwise specifically provided.

(4) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a vehicle dealership who, in the event of the owner's death, is entitled to inherit the ownership interest in the dealership under the same terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a dealership, has been appointed by a court as the legal representative of the dealer's property.

(5) "Director" means the director of the Idaho transportation department, except in chapters 6, 9 and 22, title 49, Idaho Code, where the term means the director of the Idaho department of law enforcement.

(6) "Disqualification" as defined in 49 CFR part 383, means withdrawal by the department of commercial vehicle driving privileges.

(7) "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to dealers or who maintains distributor representatives.

(8) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(9) "Distributor representative" means any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vehicles for the purpose of making or promoting the sale of vehicles, or for supervising or contacting dealers or prospective dealers.

(10) "District" means:

(a) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(b) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.

(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses.

(11) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(12) "Drag race" means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of the vehicles within a certain distance or time limit.

(13) "Driver" means every person who drives or is in actual physical control of a vehicle.

(14) "Driver's license" means a license or permit issued by the department or by any other jurisdiction to an individual which authorizes the individual to operate a motor vehicle or commercial motor vehicle on the highways in accordance with the requirements of title 49, Idaho Code.

(15) "Driver's license -- classes of" are issued for the operation of a vehicle based on the size of the vehicle or the type of load and mean:

(a) Class A. This license shall be issued and valid for the operation of any combination of motor vehicles with a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the manufacturer's gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Persons holding a valid class A license may also operate vehicles requiring a class B, C, or D license ~~for operation, with any appropriate endorsements~~.

(b) Class B. This license shall be issued and valid for the operation of any single vehicle with a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight rating (GVWR). Persons holding a valid class B license may also operate vehicles requiring a class C license~~, with any appropriate endorsements, and vehicles requiring~~ or a class D license.

(c) Class C. This license shall be issued and valid for the operation of any single vehicle or combination of vehicles that does not meet the definition of class A or class B, as defined in this section, but that either is designed to transport sixteen (16) or more people~~,~~ including the driver, or is of any size which does not meet the definition of class A or class B and is used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded ~~for~~ under the federal hazardous materials regulations 49 CFR part 172, subpart F. Persons holding a valid class C license may also operate vehicles requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in section 49-123, Idaho Code.

(e) "Seasonal driver's license" means a special restricted class B or C driver's license to operate certain commercial vehicles in farm-related industries under restrictions imposed by the department. As used in this definition, "farm-related industry" shall mean custom harvesters, farm retail outlets and suppliers, agri-

chemical businesses and livestock feeders. Seasonal driver's licenses are not valid for driving vehicles carrying any quantities of hazardous material requiring placarding, except for diesel fuel in quantities of one thousand (1,000) gallons or less, liquid fertilizers, i.e., plant nutrients, in vehicles or implements of husbandry with total capacities of three thousand (3,000) gallons or less, and solid fertilizers, i.e., solid plant nutrients, that are not mixed with any organic substance.

(16) "Driver's license endorsements" means special authorizations that are required to be displayed on a driver's license which permit the driver to operate certain types of commercial vehicles or commercial vehicles hauling certain types of cargo, or to operate a motorcycle.

(a) "Endorsement T -- Double/triple trailer" means this endorsement is required on a class A license to permit the licensee to operate a vehicle authorized to tow more than one (1) trailer.

(b) "Endorsement H -- Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle ~~transporting a hazardous material that is required~~ used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials ~~transportation act and by rules and~~ regulations ~~of the U.S. department of transportation~~ 49 CFR part 172, subpart F.

(c) "Endorsement P -- Passenger" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle designed to transport sixteen (16) or more people, including the driver.

(d) "Endorsement N -- Tank vehicle" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle which is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in federal regulations 49 CFR part 171. This definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons.

(e) "Endorsement M -- Motorcycle" means this endorsement is required on a driver's license to permit the driver to operate a motorcycle.

(17) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(18) "Dromedary tractor" means every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer.

SECTION 2. That Section 49-116, Idaho Code, be, and the same is hereby amended to read as follows:

49-116. DEFINITIONS -- O.

(1) "Operator" means every person who is in actual physical con-

trol of a motor vehicle upon a highway or private property open to public use.

(2) "Out of service order" means a temporary prohibition against operating a commercial vehicle ~~motor-vehicle~~ as declared by an authorized enforcement officer of a federal, state, Canadian, Mexican or local jurisdiction and which is applicable to a driver, a commercial motor vehicle or a motor carrier operation pursuant to federal regulations 49 CFR part 386.72, 392.5, 395.13 or 396.9, or to similar laws of jurisdictions outside the United States, or to the North American uniform out-of-service criteria.

(3) "Owner" means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security. "Owner" for the purposes of chapter 12 means the person legally responsible for the operation of a vehicle upon the highways of the state of Idaho, whether as owner, lessee or otherwise.

SECTION 3. That Section 49-120, Idaho Code, be, and the same is hereby amended to read as follows:

49-120. DEFINITIONS -- S.

(1) "Saddlemount combination" means a combination of vehicles in which a truck or truck tractor tows one (1), two (2) or three (3) trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The saddle is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. A smaller vehicle mounted completely on the frame of either the first or last vehicle may be used in a saddlemount combination.

(2) "Safety glazing materials" means glazing materials so constructed, treated or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

(3) "Safety zone" means the area or space officially set apart within a highway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(4) "Salvage pool" means a licensed vehicle dealer engaged primarily in the business of disposing of salvage vehicles, recovered stolen vehicles, or both.

(5) "School bus" means every motor vehicle that complies with the color and identification requirements set forth in the most recent edition of "Minimum Standards for School Buses" and is used to transport children to or from school or in connection with school approved activities and includes buses operated by contract carriers.

(6) "Secretary" means the secretary of transportation of the United States.

(7) "Security agreement." (See section 28-9-105, Idaho Code)

(8) "Security interest." (See section 28-1-201, Idaho Code)

(9) "Sell," "sold," "buy," and "purchase," mean and include, as used in sections 49-2401 through 49-2406, Idaho Code, exchange, barter, gift, and offer or contract to sell or buy.

(10) "Semitrailer." (See "Trailer", section 49-121, Idaho Code)

(11) "Serious traffic violation" means conviction of an offense specified in 49 CFR part 383 while operating a commercial motor vehicle.

(12) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for use by pedestrians.

(13) "Signal." (See "Railroad sign", section 49-119, Idaho Code)

(14) "Skills test" means an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

(15) "Slow moving vehicle" means any vehicle not normally operated upon the highways.

(15~~6~~) "Snow tire." (See "Tires", section 49-121, Idaho Code)

(16~~7~~) "Sold." (See "Sell", "buy", and "purchase", this section)

(17~~8~~) "Solid rubber tire." (See "Tires", section 49-121, Idaho Code)

(18~~9~~) "Special license plate" means a license plate that is made available to the public as a personal alternative to the standard issue license plate. This definition shall not include the plates issued under sections 49-403, 49-403A, 49-404, 49-410, 49-415 and 49-415B, Idaho Code.

(~~19~~20) "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including: ditch-digging apparatus, well-boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines, and self-propelled cranes, and earth moving equipment. The term does not include travel trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(20~~1~~) "Specially constructed vehicle." (See "Vehicle", section 49-123, Idaho Code)

~~(~~(21~~2~~) "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

(22~~3~~) "State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of Canada.

(23~~4~~) "Stop" means the act of or complete cessation from movement.

(24~~5~~) "Stopping" means the act of any halting even momentarily of a vehicle.

(25~~6~~) "Street." (See "Highways", section 49-109, Idaho Code)

(26~~7~~) "Street rod" means any pre-1949 vehicle which has had a significant drive train update from a more modern vehicle. Changes may include engine, transmission, rear axle, and other suspension components. The body will be, or resemble the same as the manufacturer's

original issue after its first sale after manufacture.

(2~~7~~8) "Studded tire." (See "Tires", section 49-121, Idaho Code)

(2~~8~~9) "Substandard width lane" means a lane that is too narrow for a bicycle and a motor vehicle to travel safely side by side within the lane.

(~~29~~30) "Supplemental lot" means a physically separate location owned and maintained by a licensed dealer or manufacturer within the same or adjacent county as the principal place of business which meets all the requirements for a principal place of business.

(3~~0~~1) "Suspension of driver's license" means the temporary withdrawal by formal action of the department or as otherwise provided in this title of a person's driver's license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be for a period specifically designated by the department.

(3~~1~~2) "Suspension of vehicle registration" means the temporary withdrawal by formal action of the department or as otherwise provided in this title of a person's vehicle registration or, in the case of fleets of vehicles, all vehicle registrations in each fleet operated by a company. Upon suspension, the privileges of operating the vehicle or vehicles on Idaho highways is terminated until the difficulty that caused the suspension is corrected and notification is provided that the suspension has been lifted.

SECTION 4. That Section 49-240, Idaho Code, be, and the same is hereby amended to read as follows:

49-240. CERTAIN CIRCUMSTANCES FOR FORFEITURE OF BOND FOR TRAFFIC OFFENSES. (1) Whenever a person has received a written uniform misdemeanor traffic citation, summons or complaint containing a notice to appear before a magistrate, and if the attorney prosecuting the case and the defendant concur that it is in the best interest of justice that the defendant may post and forfeit an amount of the bond agreed upon by the parties, the court shall dismiss the charge. When bond is forfeited under the provisions of this subsection, no violation points, as prescribed in section 49-326, Idaho Code, shall accrue. A forfeiture of bond under the provisions of this subsection shall not be recorded as a conviction, but the proceeds of the bond shall be distributed as court costs and fines as though there were a conviction.

(2) The provisions of subsection (1) of this section shall not be available when citations, summons or complaints are written for a violation of the provisions of section 18-8001, 18-8004, 18-8006 or 49-1401, Idaho Code.

(3) Whenever a person has received a written uniform traffic citation, summons or complaint containing a notice to appear before a magistrate for an offense arising out of the operation of a commercial vehicle as defined in federal regulation 49 CFR part 383.5, any bond forfeiture shall be treated as though it were a conviction.

SECTION 5. That Section 49-301, Idaho Code, be, and the same is hereby amended to read as follows:

49-301. DRIVERS TO BE LICENSED. (1) No person, except those

expressly exempted by the provisions of this chapter, shall drive any motor vehicle upon a highway unless the person has a valid Idaho driver's license. No person shall operate a motorcycle upon a highway unless he has a motorcycle endorsement on his valid driver's license. No person shall operate a commercial motor vehicle as defined in section 49-123, Idaho Code, upon a highway unless he has a seasonal or class A, B or C driver's license with required endorsements. No person shall operate a motor vehicle in violation of any valid restriction identified on or attached to, his valid driver's license. No person shall receive a driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction, or until he executes an affidavit that he does not possess a driver's license. No person shall be permitted to have more than one (1) driver's license at any time.

(2) ~~All--operator's--and-chauffeur's-licenses-issued-shall-remain valid-until-expired,-except-a-chauffeur's-or-operator's--license--will not--remain--valid--after-April-1,-1992,-for-operation-of-a-commercial motor-vehicle~~ Any holder of a class A, B or C commercial driver's license issued by a jurisdiction other than Idaho shall apply for an Idaho-issued commercial driver's license within thirty (30) days of establishing a domicile in Idaho.

SECTION 6. That Section 49-303, Idaho Code, be, and the same is hereby amended to read as follows:

49-303. WHAT PERSONS SHALL NOT BE LICENSED. The department shall not issue any driver's license, instruction permit, driver's training permit, privileges or right to drive and if issued, may revoke or cancel the driver's license of a person who:

(1) As an operator of a vehicle requiring a class D driver's license, is under the age of seventeen (17) years, except that the department may issue a driver's license to any person who has successfully completed an approved driver training course and who is at least fifteen (15) years of age, with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age. The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

(2) As an operator of a vehicle requiring a class D driver's license, is under the age of seventeen (17) years and has not successfully completed an approved driver training course.

(3) As an operator of a commercial vehicle requiring a class A, B or C driver's license is under the age of eighteen (18) years.

(4) Applicants with less than one (1) year of driving experience, as evidenced by a valid class D driver's license shall not be issued a class A, B or C driver's license.

(5) As a driver has had his license, instruction permit, driver training permit, privileges or right to drive suspended for the duration of the suspension, nor to any person whose license has been revoked, until the expiration of one (1) year after the license was revoked.

(6) Is an habitual drunkard, or is addicted to the use of narcotic drugs.

(7) Has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law.

(8) Is required by the provisions of this chapter to take an examination, unless that person shall have successfully passed such examination.

(9) May be required under any law of this state to ~~deposit~~ furnish proof of financial responsibility and who has not ~~deposited~~ furnished that proof.

(10) The department has good cause to believe that the operation of a motor vehicle on the highways by that person would be harmful to public safety or welfare.

(11) Is disqualified for a class A, B or C license, except he may be issued a class D driver's license.

(12) Is not a resident of the state of Idaho.

SECTION 7. That Section 49-305, Idaho Code, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS -- TEMPORARY LICENSES -- TEMPORARY DRIVER'S TRAINING INSTRUCTION PERMIT. (1) Upon passage of ~~a~~ the required knowledge tests ~~for-the-license-class-type~~ appropriate for the vehicle being operated, the department may issue an instruction permit for the type of vehicle(s) the person will be operating, entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of at least one hundred eighty (180) days. That person must be accompanied by an adult ~~licensed~~ driver who holds ~~at-least-the-same-class-of~~ a driver's license appropriate for the vehicle being operated and who is actually occupying a seat beside the driver.

(a) Any person who has reached the age of fifteen (15) years, and who has successfully completed an approved driver training course may apply for a class D instruction permit with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age. The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

(b) Any person who has reached the age of eighteen (18) years may apply for a class A, B or C instruction permit.

(c) ~~Until-October-1,-1993,-direct,-uninterrupted-audio-or--audio-visual-electronic-communication-between-the-holder-of-a-class-A,-B or-C-instruction-permit-and-a-driver-instructor-may-be-substituted for-the-driver-instructor's-physical-presence-in-the-vehicle-if:~~

~~(i)---The-driver-instructor-holds-the-same-or-higher-class-of driver's-license;-and~~

~~(ii)--The-behind-the-wheel-instruction-is-administered-pursuant--to-a-driver-training-program-that-is-formally-recognized and-operated-within-the-state-according--to--state--standards for-such-programs;-and~~

~~(iii)-The--behind-the-wheel--instruction-occurs-solely-within the-boundaries-of-the-state-and-within-the-radius-of-uninterrupted-electronic-communication-between-the-permit-holder-and~~

~~the-driver-instructor-as-long-as-the-distance-between-the-two (2)-parties-does-not-exceed-one-(1)-mile;-and~~

~~(iv)--The-behind-the-wheel-training-occurs-while-the--vehicle is--used--for--training-purposes-exclusively-and-not-for-purposes-of-transporting-passengers-or-property;-and~~

~~(v)---The-vehicle-being-driven-is-not-of-a-type-whose--operator--would-require-an-endorsement-on-his-driver's-license-for double/triple-trailers,-tank-vehicles-or-hazardous-material.~~

~~(d)~~ On and after April 1, 1992, federal highway administration rules and regulations concerning instruction permits, as specified in 49 CFR part 383, will be in effect for commercial motor vehicles.

(2) The department may, in its discretion, issue a temporary class D driver's license to an applicant for a class D driver's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary license must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's driver's license has been issued or for good cause has been refused.

(3) If an applicant for a driver's training instruction permit cannot provide a certified copy of his birth certificate at the time of application, the department may issue a temporary driver's training instruction permit upon receipt of both a photo identification and a letter from the school verifying the applicant's enrollment in a driver training course. Upon receipt of the certified copy of the birth certificate, the department shall issue the driver's training instruction permit.

(~~3~~4) ~~Upon--application--for~~ The department may issue a motorcycle endorsement ~~upon-his~~ instruction permit to an applicant who has a valid driver's license and ~~upon-successful-completion-of~~ who has successfully completed the motorcycle riders knowledge test~~,-in--addition to--payment-of~~ and paid the appropriate fees~~,-the-department-may-issue a-motorcycle-endorsement-instruction-permit~~. The permit entitles the applicant, while having the permit in his immediate possession and while riding under the direct supervision of any person eighteen (18) years or older who possesses a valid driver's license, and after September 1, 1998, who also possesses a motorcycle endorsement, to operate a motorcycle upon the highways for a period not to exceed one hundred eighty (180) days. If the permittee passes the skills test for a motorcycle endorsement within one hundred eighty (180) days of issuance of the motorcycle endorsement instruction permit, he shall not be required to pay the motorcycle endorsement fee. "Direct supervision" means that any person eighteen (18) years of age or older who possesses a valid driver's license, and after September 1, 1998, who also possesses a motorcycle endorsement, is within two hundred (200) feet of the permittee at all times during the permittee's operation of a motorcycle. A person holding a motorcycle instruction permit shall not carry any passenger while operating a motorcycle, shall not operate a motorcycle except during the hours of daylight only and shall not operate a motorcycle upon any interstate highway system.

A violation of the conditions of a motorcycle endorsement instruc-

tion permit is a misdemeanor. The department shall cancel the permit whether or not such violation results in conviction of the misdemeanor.

SECTION 8. 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 $24.50
(b) Class D license $20.50
(c) Class A, B, C instruction permit $15.50
(d) Class D instruction permit $11.50
(e) Duplicate driver's license or permit issued under section 49-318, Idaho Code $11.50
(f) Driver's license extension issued under section 49-319, Idaho Code ..... $ 6.50
(g) License classification change (upgrade) $15.50
(h) Endorsement addition $11.50
(i) Class A, B, C skills tests $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 motorcycle "M" endorsement $11.50
(o) Motorcycle endorsement instruction permit $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 shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(4) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(5) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license to insure identification of the person and to obtain clearance to issue the license.

(6) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars ($5.00) from each driver's license or instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement in the current expense fund; and

(b) Deposit two dollars and fifty cents ($2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and

(c) Deposit an amount equal to three dollars ($3.00) from each fee for a knowledge test 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) One dollar ($1.00) for each fee for a class A, B, C or D driver's license shall be deposited in the motorcycle safety program fund established in section 33-4804, 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 (150) mile radius of the place of business or farm being serviced; and

(e) Will be valid only in conjunction with valid Idaho class D driver's licenses.

(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 9. 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~~A skills test shall be required for an applicant who has not been previously licensed ~~or endorsed~~ for ~~operation of~~ the class of license requested, or who holds a license issued by another country. A skills test may be required at the discretion of the examiner or department for a class A, B, C or D driver's license or a motorcycle endorsement. 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 a knowledge test for a seasonal driver's license, or any endorsement may not retake the test within 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, if 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, if 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 10. 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.

SECTION 11. That Section 49-319, Idaho Code, be, and the same is hereby amended to read as follows:

49-319. EXPIRATION AND RENEWAL OF DRIVER'S LICENSE. (1) Every Idaho driver's license ~~originally~~ issued to a driver shall expire on the licensee's birthday in the fourth year following the issuance of the driver's license. Every driver's license that has not, as provided by law, been suspended, revoked or disqualified in this state or any other jurisdiction shall be renewable on or before its expiration, but not more than twelve (12) months before, upon application, payment of the required fee, and satisfactory completion of the required eyesight and hearing examination. No knowledge test shall be required for renewal of a driver's license, except for renewal of a hazardous material endorsement. Appropriate knowledge and skill tests shall be required for an upgrade in a driver's license class or an endorsement addition. In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(2) When a driver's license has been expired for less than twelve (12) months, the renewal of the driver's license shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the driver's license is expired for more than twelve (12) months, the applicant shall be required to take the knowledge test and the application shall expire on the licensee's birthday in the fourth year following issuance of the driver's license.

(3) (a) If a driver's license has expired or will expire and the licensee is temporarily out-of-state except on active military duty, and the driver's license has not, as provided by law, been suspended, revoked, cancelled, denied, refused or disqualified, the licensee may request in writing on a form prescribed by the department an extension of the driver's license. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be less than a twelve (12) month period. If

the department determines that an extension of the driver's license is necessary, it may issue a certificate of extension showing the date to which the expired driver's license is extended, and this certificate shall be attached to the expired driver's license. Certificates of extension are limited to one (1) per licensee.

(b) Upon returning to the state of Idaho, the licensee shall within ten (10) days, apply for a renewal of the expired driver's license and surrender the certificate of extension and the expired driver's license.

(c) A hazardous material endorsement cannot be extended.

(4) An Idaho driver's license issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four (4) years so long as active duty continues, if the driver's license is not suspended, denied, disqualified, cancelled or revoked, as provided by law, during the active duty, and the driver's license shall remain in full force and effect sixty (60) days following the date the holder is released from active duty.

(5) The department may use a mail renewal process for class D licenses based on criteria established by rule ~~and regulation~~.

(6) A seasonal driver's license is only valid for a one hundred eighty (180) day period from the date of issuance. Only one (1) seasonal driver's license may be obtained in any twelve (12) month period, and may only be obtained twice in a driver's lifetime.

SECTION 12. That Section 49-320, Idaho Code, be, and the same is hereby amended to read as follows:

49-320. NOTICE OF CHANGE OF ADDRESS. It is the responsibility of every licensed driver and every person applying for a driver's license to keep a current address on file with the department.

(1) Whenever any person after applying for or receiving a driver's license shall move from the address shown in the application or in the driver's license issued, that person shall, within ~~ten~~ fourteen (1~~0~~4) days, notify the department in writing of the old and new addresses.

(2) Whenever any statute or rule requires a driver to receive notice of any official action with regard to the person's driver's license or driving privileges taken or proposed by a court or the department, notification by certified mail at the address shown on the application for a driver's license or at the address shown on the driver's license or at the address given by the driver, shall constitute all the legal notice that is required.

SECTION 13. That Section 49-326, Idaho Code, be, and the same is hereby amended to read as follows:

49-326. AUTHORITY OF DEPARTMENT TO SUSPEND, DISQUALIFY OR REVOKE DRIVER'S LICENSE AND PRIVILEGES. (1) If the court has not ordered the suspension of a license or privileges, the department is authorized to

suspend, disqualify or revoke the license or privileges of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the driver:

(a) Has committed an offense for which mandatory revocation or disqualification of license or privileges is required upon conviction;

(b) Has been convicted in any court in this state of an offense against a municipal ordinance which would have been grounds for suspension, revocation or disqualification of his driver's license or privileges had the charge been prosecuted under a state law;

(c) Is incompetent to drive a motor vehicle;

1. Any person who in the opinion of the department, based upon recommendation of the person's personal physician, is afflicted with or subject to any condition which brings about momentary or prolonged lapses of consciousness or control, which is or may become chronic, or when the person is suffering from a physical or mental disability or disease serving to prevent him from exercising reasonable and ordinary control over a motor vehicle while operating it upon the streets and highways, or any person who is unable to understand highway signs, warning, regulating or directing traffic, is incompetent to drive a motor vehicle.

2. Any person who shall not have minimum visual acuity with or without corrective lenses of 20/40 in at least one (1) eye as determined by the Snellen system or other available systems is incompetent to operate a motor vehicle, however, the department shall have the authority to license such person upon the recommendation of an ophthalmologist or qualified physician and upon passage of a skills test. At 20/70 or more in both eyes with or without corrective lenses the department may suspend the driver's license and privileges. Any person who applies for or receives any type of tax, welfare or other benefits or exemptions for the blind shall be conclusively presumed incompetent to operate a motor vehicle.

3. Any person, department, or political subdivision of the state of Idaho who receives an application for any type of tax, welfare, aid or other benefits or exemptions for the blind shall immediately forward the name, address, sex, date of birth, and date of application of the applicant to the department;

(d) Has permitted an unlawful or fraudulent use of a driver's license;

(e) Has committed an offense in another state which if committed in Idaho would be grounds for suspension, disqualification or revocation;

(f) Has been convicted of the offense of reckless driving, or fleeing or attempting to elude a peace officer, and providing that the operating privilege shall be suspended for a period of thirty (30) days upon conviction and providing further, that if a second conviction occurs within a two (2) year period of time from the time of the first conviction, the suspension shall be for ninety (90) days, and if a third conviction shall occur within a three (3) year period of time from the time of the first conviction, the

period of suspension shall be for one (1) year;

(g) Has failed to satisfy a judgment as set forth in chapter 12, title 49, Idaho Code;

(h) Has failed to maintain proof of financial responsibility as set forth in chapter 12, title 49, Idaho Code;

(i) Has a driving record which shows a violation point count of twelve (12) or more points in any consecutive twelve (12) month period;

(j) Is an habitual violator of traffic laws;

(k) Has been convicted of the offense of violation of a restricted license and providing the driver's license and privileges be suspended for a period of thirty (30) days;

(l) Has been convicted for the offense of leaving the scene of an accident involving damages to a vehicle, the period of revocation shall be one (1) year;

(m) Has been convicted for the offense of leaving the scene of an accident resulting in injury or death, the period of revocation shall be one (1) year.

(2) A violation point is assessed for conviction of any charge or with proof of any infraction involving a moving traffic violation. A value of one (1) point shall be given for a less serious violation and up to four (4) points for a more serious violation. Conviction or proof of infraction for only one (1) violation arising from one (1) occasion of arrest or citation shall be counted in determining the violation point count.

(3) The department is authorized and directed to establish a violation point count system for various moving traffic violations and infractions occurring either within or without the state of Idaho, affecting all holders of driver's licenses issued by the department.

(4) Notification of suspension, revocation, cancellation or disqualification. Upon suspending, revoking, canceling or disqualifying the driver's license or driving privileges of any person, the department shall immediately notify the applicant or licensee in writing, at the licensee's address on file with the department pursuant to section 49-320, Idaho Code. ~~and~~ ~~u~~Upon his request the department shall afford him an opportunity for a hearing before the director or a hearing officer appointed by the director. The hearing shall be held within twenty-one (~~20~~21) days after receipt of the request. The place of the hearing shall be designated by rule of the department in one (1) or more location in each of the administrative districts of the department which are headquartered at Coeur d'Alene, Lewiston, Boise, Shoshone, Pocatello and Rigby. The notice and hearing shall be required prior to the imposition of additional suspension or disqualification periods beyond the periods as set forth in this section. Upon a hearing the director or his duly authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee. Upon the hearing the department shall either rescind its order or, with good cause, may affirm or extend the suspension or disqualification of the driver's license or revoke the driver's license.

Whenever a driver's license, permit or driving privilege has been suspended or revoked by the department as provided in this section, other than as set forth in subsections (1)(c), (d), (g), (h) or (m),

the department may issue a temporary restricted permit restricting the time, area and purpose of use. The application, eligibility requirements and form of the temporary restricted permit shall be provided by administrative rule.

(5) The department shall not suspend a driver's license or privileges for a period of more than one (1) year and upon revoking a driver's license or privileges shall not in any event grant application for a new driver's license until the expiration of one (1) year after the revocation. The provisions of this subsection shall not be applicable with respect to the issuance of temporary restricted permits as provided in section 49-325, Idaho Code.

(6) The department shall not disqualify a driver for a period longer than specified by 49 CFR part 383.

SECTION 14. That Section 49-335, Idaho Code, be, and the same is hereby amended to read as follows:

49-335. DISQUALIFICATIONS AND PENALTIES -- COMMERCIAL DRIVER'S LICENSE. (1) Any person who operates a commercial motor vehicle and who holds a class A, B or C driver's license is disqualified from operating a commercial motor vehicle for a period of not less than one (1) year if convicted of a first violation under state or federal law of:

(a) Operating a commercial motor vehicle while under the influence of alcohol or a controlled substance;

(b) Operating a commercial motor vehicle while the alcohol concentration of the person's blood, breath or bodily substance is 0.04 or more;

(c) Leaving the scene of an accident involving a commercial motor vehicle driven by the person;

(d) Using a commercial motor vehicle in the commission of any felony.

(2) Any person who operates a commercial motor vehicle and who holds a class A, B or C driver's license is disqualified from operating a commercial motor vehicle for a period of not less than one (1) year if the person refuses to submit to a test to determine the driver's alcohol concentration while operating a commercial motor vehicle.

(3) If any of the offenses specified in subsection (1) or (2) of this section occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three (3) years.

(4) A person is disqualified for the period of time specified in 49 CFR part 383 if found to have committed two (2) or more of any of the offenses specified in subsection (1) or (2) of this section, or any combination of those offenses, arising from two (2) or more separate incidents.

(5) A person is disqualified for the period of time specified in 49 CFR part 383 from operating a commercial motor vehicle who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession of a controlled substance with the intent to manufacture, distribute or dispense such controlled substance.

(6) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period.

(7) A person who drives, operates, or is in physical control of a commercial motor vehicle within this state while having any detectable amount of alcohol in his system or who refuses to submit to an alcohol test must be placed out of service for twenty-four (24) hours and be subject to the provisions of section 18-8002, Idaho Code.

(8) A person who is convicted of a violation of an out-of-service order while driving a commercial motor vehicle is disqualified for not less than:

(a) Ninety (90) days nor more than one (1) year for a first conviction;

(b) One (1) year nor more than five (5) years for a second conviction arising from separate incidents during any ten (10) year period;

(c) Three (3) years nor more than five (5) years for three (3) or more convictions arising from separate incidents during any ten (10) year period.

(9) A person who is convicted of a violation of an out-of-service order while driving a commercial motor vehicle and while transporting hazardous materials required to be placarded under the hazardous materials transportation act, or while operating motor vehicles designed to transport sixteen (16) or more people including the driver, is disqualified for not less than:

(a) One hundred eighty (180) days nor more than two (2) years for a first conviction;

(b) Three (3) years nor more than five (5) years for subsequent convictions arising from separate incidents in any ten (10) year period.

SECTION 15. That Section 49-337, Idaho Code, be, and the same is hereby amended to read as follows:

49-337. EMPLOYEE AND EMPLOYER RESPONSIBILITIES. (1) Any operator of a commercial motor vehicle holding a class A, B or C driver's license issued by this state, and who is convicted of violating any state law or local ordinance in ~~this or~~ any other state relating to motor vehicle traffic control, other than parking violations, shall notify the department of the conviction in the manner specified by the department within thirty (30) days of the date of conviction.

(2) Any operator of a commercial motor vehicle holding a class A, B or C driver's license issued by this state, and who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state, other than parking violations, shall notify his employer in writing of the conviction within thirty (30) days of the date of conviction.

(3) Each employee whose class A, B or C driver's license is suspended, revoked, denied, refused or cancelled by this state or who loses the privilege to operate a commercial motor vehicle in any state

for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify his employer of that fact before the end of the business day following the day the employee received notice of that fact.

(4) Each person who applies for employment as an operator of a commercial motor vehicle with an employer shall provide notification to the employer, at the time of application, of his previous employment as an operator of a commercial motor vehicle. The period of previous employment of which notification must be given shall be the ten (10) year period ending on the date of application for employment.

(5) No employer shall knowingly allow, permit or authorize an employee to operate a commercial motor vehicle in the United States during any period:

(a) In which the employee has a driver's license suspended, revoked or cancelled by a state, has lost the privilege to operate a commercial motor vehicle in a state or has been disqualified from operating a commercial motor vehicle; or

(b) In which the employee has more than one (1) driver's license.

(6) Each employer shall require the information specified in subsection (4) of this section to be provided by the employee.

Approved March 20, 1996.

CHAPTER 372
(H.B. No. 865)

AN ACT

RELATING TO WORKER'S COMPENSATION INSURANCE; AMENDING SECTION 5 OF SENATE BILL NO. 1377, SECOND REGULAR SESSION, FIFTY-THIRD IDAHO LEGISLATURE, TO PROVIDE FOR A REVIEW BY THE LEGISLATURE TO DETERMINE A STATUTE'S ADEQUACY IN RELATION TO WORKER'S COMPENSATION INSURANCE RATES.

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

SECTION 1. That Section 5 of Senate Bill No. 1377, Second Regular Session, Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

SECTION 5. Subsections (2) and (3) of Section 41-1612, Idaho Code, as added by the provisions of Section 1 of this act shall be ~~null, void and of no force and effect on and after July 1, 2001~~ reviewed by the Legislature during the regular legislative session in 2001, for their adequacy in relation to worker's compensation insurance rates.

Approved March 20, 1996.

CHAPTER 373
(H.B. No. 683, As Amended in the Senate)

AN ACT

RELATING TO COLLECTING DISHONORED CHECKS IN THE SMALL CLAIMS DEPARTMENT OF THE MAGISTRATE'S DIVISION OF THE DISTRICT COURTS; AMENDING SECTION 1-2301A, IDAHO CODE, TO ALLOW LICENSED COLLECTION AGENCIES TO RECOVER DAMAGES FOR DISHONORED CHECKS; AMENDING SECTION 1-2307, IDAHO CODE, TO ALLOW LICENSED COLLECTION AGENCIES TO FILE AND PROSECUTE ACTIONS TO COLLECT DISHONORED CHECKS IN THE SMALL CLAIMS DEPARTMENT; AMENDING SECTION 1-2308, IDAHO CODE, TO AUTHORIZE COLLECTION AGENCIES TO UTILIZE THE SMALL CLAIMS DEPARTMENT IN CERTAIN INSTANCES; AMENDING SECTION 26-2229, IDAHO CODE, TO REQUIRE WRITTEN CONTRACTS AND TO CLARIFY PERMISSIBLE CONTRACTUAL TERMS; AMENDING SECTION 28-22-105, IDAHO CODE, TO INCREASE THE COLLECTION FEE TO TWENTY DOLLARS AND TO PROHIBIT ATTORNEYS' FEES BEING AWARDED TO COLLECTION AGENCIES IN THE SMALL CLAIMS DEPARTMENT; AMENDING SECTION 28-22-107, IDAHO CODE, TO INCREASE THE COLLECTION FEE TO TWENTY DOLLARS.

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

SECTION 1. That Section 1-2301A, Idaho Code, be, and the same is hereby amended to read as follows:

1-2301A. DRAWING CHECK WITHOUT FUNDS OR INSUFFICIENT FUNDS -- CIVIL LIABILITY. In any action against a person who makes any check, draft or order for the payment of money which has been dishonored for lack of funds or credit to pay the same, or because the maker has no account with the drawee, the plaintiff, or a collection agency with a permit issued to it pursuant to section 26-2229, Idaho Code, which is attempting to collect the dishonored check under a written agreement with the payee or holder of the check, may recover from the defendant damages in an amount equal to one hundred dollars ($100) or triple the amount for which the check, draft or order is drawn, whichever is greater. However, damages recovered under the provisions of this section shall not exceed by more than five hundred dollars ($500) the value of the check, draft or order and may be awarded only if the plaintiff made written demand of the defendant for payment of the amount of the check, draft or order not less than ten (10) days before commencing the action, and if the defendant failed to tender to the plaintiff, prior to commencement of the action, an amount of money not less than the amount demanded. The written demand required by this section shall be sent to the maker by certified mail at his last known address and shall fully advise the maker of the check, draft, or order of the consequences of failure to make prompt payment under this section.

SECTION 2. That Section 1-2307, Idaho Code, be, and the same is hereby amended to read as follows:

1-2307. VERIFICATION OF CLAIM BY REAL OWNER. All claims must be

verified by the real claimant, and no claim shall be filed or prosecuted in such department by the assignee of such claim; provided however, that a collection agency with a permit issued pursuant to section 26-2229, Idaho Code, may file and prosecute a claim brought under the provisions of section 1-2301A, Idaho Code.

SECTION 3. That Section 1-2308, Idaho Code, be, and the same is hereby amended to read as follows:

1-2308. USE OF COUNSEL PROHIBITED -- WITNESSES AND EVIDENCE -- JUDGMENT. No attorney-at-law, collection agency, except as provided in section 1-2307, Idaho Code, or any other person, except an ~~authorized nonattorney-agent or~~ employee shall represent a party at any trial in said department, nor shall it be necessary to summon witnesses, but the plaintiff and defendant in any claim shall have the privilege of offering evidence in their behalf, themselves and witnesses appearing at such hearing, and being duly sworn as in other cases, and the magistrate shall render and enter judgment as in other cases.

SECTION 4. That Section 26-2229, Idaho Code, be, and the same is hereby amended to read as follows:

26-2229. EXAMINATION -- PERMIT. (1) The director shall examine each application for a permit and accompanying papers and investigate the qualifications of the applicant and if he finds therefrom that the same are in proper form, that the literature proposed to be circulated does not tend to conceal or misrepresent any fact to the detriment of any person dealing with the applicant, that the contract or contracts proposed to be entered into for the collection or payment or prorating of accounts, bills, claims or other indebtedness by the applicant, or prorating or receiving money for payment to creditors are equitable, fair and reasonable, and that the applicant meets all other requirements and qualifications of this act, he shall examine the applicant if an individual, or the designated officer or officers or employees of any corporation and the designated member or members of any partnership, in the manner described in section 26-2225, Idaho Code, and if such applicant or designee passes a satisfactory examination, he shall cause a permit to be issued authorizing the applicant to conduct such a business in this state subject to the provisions of this act, until the fifteenth day of March next thereafter.

(2) If the director finds that the applicant does not qualify under the provisions of this act, the application shall be denied. If he finds the applicant is qualified he must issue a permit upon the filing of the bonds required by this act and the payment of an annual permit fee as fixed by the director, but not to exceed one hundred dollars ($100), except that no permit fee need be paid by a nonprofit corporation or association conducting credit counseling or debt prorating activities.

(3) Contracts between collection agencies and clients shall be in writing. No collection contract shall be deemed equitable, fair or reasonable within the meaning of this section which in substance either:

(a) Permits the applicant to retain any sums due the creditor on

any account, bill, claim or other indebtedness collected for him by the applicant on account of, or as a setoff against, any fee, commission, charge, expense or compensation claimed, other than the regular collection fees or commissions, to be due from such creditor on any other account whatever.

(b) Penalizes the creditor for failure to produce evidence in support of any account, bill, claim or item of indebtedness placed with the applicant for collection in addition to that delivered upon the execution of such contract.

(c) Penalizes such creditor for any unintentional error, mistake or omission in furnishing to the applicant the correct name or address of any debtor.

(d) Stipulates, directly or indirectly, for the payment of any fee, commission or compensation in excess of fifty per cent (50%) of the amount actually collected on any account, bill, claim or other indebtedness entrusted to the applicant for collection, provided, however, that in the case of interest collected by a permittee, the creditor and the permittee by agreement between them may provide for division of such interest between them without such percentage limitation; and provided further that in the case of collection of checks dishonored by nonacceptance or nonpayment the creditor and the permittee by written agreement between them may provide, in place of a percentage fee, for the payment of a set dollar amount collection fee not to exceed ~~ten dollars ($10.00)~~ the amount provided in section 28-22-105, Idaho Code, which shall not be subject to the fifty per cent (50%) limitation. Collection agreements to proceed under section 1-2301A, Idaho Code, shall be subject to the fifty per cent (50%) limitation.

(~~3~~4) A permit or license holder, engaging in the business of receiving money from debtors for application to or payment or prorating the account or accounts of any creditor or creditors of such debtor, for compensation or otherwise, or in the business of acting as the assignee for the benefit of creditors as a primary or secondary object, shall not take or receive for services performed by such permit or license holder for any one (1) person more than fifteen per cent (15%) of the amount received by it at any one (1) time from or on behalf of that person for payment or prorating to creditors and no other charges shall be made or received for any such service.

SECTION 5. That Section 28-22-105, Idaho Code, be, and the same is hereby amended to read as follows:

28-22-105. CHECKS DISHONORED BY NONACCEPTANCE OR NONPAYMENT -- LIABILITY FOR INTEREST -- COLLECTION COSTS AND ATTORNEYS' FEES. Whenever a check, as defined in section 28-3-104, Idaho Code, has been dishonored by nonacceptance or nonpayment and has not been paid within fifteen (15) days and after the holder of such check sends such notice of dishonor as provided in section 28-22-106, Idaho Code, to the drawer at his last known address, then if the check does not provide for the payment of interest, or collection costs and attorneys' fees, the drawer of such check shall also be liable for payment of interest at the rate of twelve percent (12%) per annum from the date of dishonor and cost of collection not to exceed ~~fifteen~~ twenty dollars

($~~15~~20.00) or the face amount of the check, whichever is the lesser; provided however, that if the holder of the dishonored check has the right to collect a set fee under a written agreement or has notified the drawer by a posted notice at the point of sale that the drawer will be required to pay a set collection fee if the check is dishonored, the holder is not required to give the notice of dishonor as provided in section 28-22-106, Idaho Code, and may assess a collection cost of the notice amount regardless of the size of the check, but the set fee may not exceed ~~fifteen~~ twenty dollars ($~~15~~20.00). In addition, in the event of court action on the check, the court, after such notice and the expiration of said fifteen (15) days, shall award reasonable attorneys' fees as part of the damages payable to the holder of the check. No attorneys' fees may be awarded to a collection agency in a proceeding pursuant to section 1-2301A, Idaho Code. The provisions of this section shall not apply to any check which has been dishonored by reason of any justifiable stop payment order.

SECTION 6. That Section 28-22-107, Idaho Code, be, and the same is hereby amended to read as follows:

28-22-107. CONSEQUENCES FOR FAILING TO COMPLY WITH REQUIREMENTS. No interest, collection costs and attorneys' fees shall be recovered on any dishonored check under the provisions of section 28-22-105, Idaho Code, where the holder of such check or any agent, employee or assignee of the holder has demanded:

(1) Interest or collection costs in excess of that provided in section 28-22-105, Idaho Code; or

(2) Interest or collection costs prior to the expiration of fifteen (15) days after the certified mailing of notice of dishonor, as provided in sections 28-22-105 and 28-22-106, Idaho Code; or

(3) Attorneys' fees, either without having such fees set by the court, or prior to the expiration of fifteen (15) days after the certified mailing of notice of dishonor, as provided in sections 28-22-105 and 28-22-106, Idaho Code.

The provisions of this section shall not prohibit the collection of a set collection fee which does not exceed ~~fifteen~~ twenty dollars ($~~15~~20.00), if the holder has the right to collect a set fee under a written agreement or has notified the drawer at the point of sale that the drawer will be required to pay the set collection fee in the event a check is dishonored.

Approved March 20, 1996.

CHAPTER 374
(H.B. No. 638, As Amended in the Senate)

AN ACT

RELATING TO COUNTY BOARDS OF EQUALIZATION; AMENDING CHAPTER 4, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-401A, IDAHO CODE, TO PROVIDE FOR TAXPAYER APPEALS OF ASSESSMENTS TO COUNTY BOARDS OF EQUALIZATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 4, 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 63-401A, Idaho Code, and to read as follows:

63-401A. TAXPAYER'S RIGHT TO APPEAL. (1) Taxpayers may file an appeal of an assessment with the county board of equalization. An appeal shall be made in writing on a form provided by the county board of equalization or assessor and must identify the taxpayer, the property which is the subject of the appeal and the reason for the appeal. An appeal of an assessment listed on the real or personal property roll must be filed on or before the end of the county's normal business hours on the fourth Monday of June. An appeal of an assessment listed on the subsequent property roll must be filed on or before the end of the county's normal business hours on the fourth Monday of November. An appeal of an assessment listed on the missed property roll must be filed on or before the board of equalization adjourns on the day of its January meeting. The board of equalization may consider an appeal only if it is timely filed.

(2) Appeals from the county board of equalization shall be made pursuant to section 63-2210, 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, 1996.

CHAPTER 375
(H.B. No. 771, As Amended in the Senate)

AN ACT

RELATING TO CRIMINAL HISTORY CHECKS FOR SCHOOL DISTRICT EMPLOYEES OR APPLICANTS FOR CERTIFICATES; AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-130, IDAHO CODE, TO PROVIDE A PROCEDURE FOR CRIMINAL HISTORY CHECKS IN THE DEPARTMENT OF EDUCATION FOR SCHOOL DISTRICT EMPLOYEES AND APPLICANTS FOR CERTIFICATES, TO PROVIDE FOR FEES AND TO PROVIDE FOR A JOINT EXERCISE OF POWERS AGREEMENT; AMENDING SECTION 33-512, IDAHO CODE, TO REQUIRE CERTAIN EMPLOYEES OF A SCHOOL DISTRICT TO UNDERGO CRIMINAL HISTORY CHECKS, TO PROVIDE THAT A SCHOOL DISTRICT MAY REQUIRE CRIMINAL HISTORY CHECKS ON PERSONS WHO HAVE BEEN EMPLOYED BY THE DISTRICT MORE THAN FIVE YEARS, TO PROVIDE FOR A SYSTEM FOR REGISTERING VOLUNTEERS OR CONTRACTORS CONSISTENT WITH MAINTAINING A SAFE ENVIRONMENT FOR THEIR STUDENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1202, IDAHO CODE, TO PROVIDE APPLICANTS FOR A CERTIFICATE SHALL HAVE ON FILE WITH THE DEPARTMENT OF EDUCA-

TION THE RESULTS OF A CRIMINAL HISTORY CHECK AND TO DELETE THE REQUIREMENT APPLICANTS BE FREE FROM TUBERCULOSIS AND TO PROVIDE THE EFFECT OF BEING CONVICTED OF CERTAIN FELONY CRIMES; AND AMENDING SECTION 33-1204, IDAHO CODE, TO PROVIDE FOR RULES AND TO PROVIDE THE EFFECT OF BEING CONVICTED OF CERTAIN FELONY CRIMES.

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

SECTION 1. That Chapter 1, 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 33-130, Idaho Code, and to read as follows:

33-130. CRIMINAL HISTORY CHECKS FOR SCHOOL DISTRICT EMPLOYEES OR APPLICANTS FOR CERTIFICATES. The department of education, through the cooperation of the department of law enforcement, shall establish a system to obtain a criminal history check on certificated and noncertificated employees, and all applicants for certificates pursuant to chapter 12, title 33, Idaho Code. The criminal history check shall include the following:

(1) Statewide criminal identification bureau;
(2) Federal bureau of investigation (FBI) criminal history check;
(3) National crime information center; and
(4) Statewide sex offender register.

The state department of education shall charge all applicants a fee of forty dollars ($40.00) for undergoing a criminal history check pursuant to this section. The fee shall be sufficient to cover costs charged by the federal bureau of investigation, the state department of law enforcement and the state department of education. A record of all background checks shall be maintained at the state department of education in a data bank for all employees of a school district with a copy going to the applicant. The department of education shall forward to all applicants for a criminal history check, notification that the fingerprint card has been destroyed after the background check has been completed. The department of education and the department of law enforcement shall ensure that fingerprint cards have been destroyed after a criminal history check has been completed.

The department of law enforcement and the department of education shall implement a joint exercise of powers agreement pursuant to section 67-2328 through 67-2333, Idaho Code, necessary to implement the provisions of this section.

SECTION 2. 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~~ extracurricular 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~~ extracurricular activities shall not be considered to be a property, liberty or contract right of any student, and such ~~extra-curricular~~ extracurricular activities shall not be deemed a necessary element of a public school education, but shall be considered to be a privilege.

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

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

15. To require that all persons hired for the first time by the district or who have been in the employ of the district five (5) years or less, undergo a criminal history check as provided in section 33-130, Idaho Code. All such employees who are required to undergo a criminal history check shall obtain the history check within three (3) months of starting employment, or for employees with five (5) years or less with the district, within three (3) months from the date such employee is notified that he must undergo a criminal history check. Such employees shall pay the cost of the criminal history check. If

the criminal history check shows that the employee has been convicted of a felony crime enumerated in section 33-1208, Idaho Code, it shall be grounds for immediate termination, dismissal or other personnel action of the district, except that it shall be the right of the school district to evaluate whether an individual convicted of one (1) of these crimes and having been incarcerated for that crime shall be hired. The district may require any or all persons who have been employed continuously with the same district for more than five (5) years, to undergo a criminal history check as provided in section 33-130, Idaho Code. If the district elects to require criminal history checks of such employees, the district shall pay the costs of the criminal history check or reimburse employees for such cost.

16. Each board of trustees of a school district shall be responsible for developing a system for registering volunteers or contractors consistent with maintaining a safe environment for their students.

SECTION 3. That Section 33-1202, Idaho Code, be, and the same is hereby amended to read as follows:

33-1202. ELIGIBILITY FOR CERTIFICATE. Each applicant for a certificate must:

1. Have attained the age of eighteen (18) years;

2. Have completed specific minimum requirements in college training as specified in ~~uniform regulations~~ rules of the state board of education;

3. Be free from ~~tuberculosis or other~~ contagious disease; but if at any time there is probable cause to believe that any such employee of the district is so afflicted, the board shall cause examination to be made by a licensed physician, and may exclude the employee from service without loss of pay pending determination whether so afflicted.

4. Have on file with the state department of education the results of a criminal history check pursuant to section 33-130, Idaho Code. If an applicant is found to have been convicted of any of the felony crimes enumerated in section 33-1208, Idaho Code, a certificate shall not be issued to the applicant.

The state board of education may refuse to issue or authorize a certificate to any applicant for such reason as would have constituted grounds for revoking a certificate.

SECTION 4. That Section 33-1204, Idaho Code, be, and the same is hereby amended to read as follows:

33-1204. VALIDITY, DURATION, RENEWAL AND LAPSE OF CERTIFICATES. The state board of education shall by ~~uniform regulation~~ rule provide for the validity, duration, renewal and lapse of certificates.

1. The validity of provisional certificates shall be limited to not more than three (3) years; they shall be endorsed for only the grade, grades or subjects the holders may teach; and their renewal shall be premised upon the completion of not less than eighteen (18) semester hours or twenty-seven (27) quarter hours of professional training applicable toward the issuance of a standard certificate and undertaken since the first issuance, or the latest renewal as the case

may be, of said certificate;

2. No certificate shall lapse because of nonuse while the holder thereof is serving in the armed forces of the United States in time of war, or has been called into service of the armed forces at any time. Upon filing a request therefor by the holder of such certificate, not later than one (1) year after the termination of such military service, the validity of such certificate shall be extended for a period equal to the time spent in such military service. The provisions of this paragraph shall not apply to any person who voluntarily enlists at the end of the period in which he was called into military service.

3. If the holder of a certificate who has undergone a criminal history check pursuant to district policy as provided in subsection 15. of section 33-512, Idaho Code, is found to have been convicted of any felony crime enumerated in section 33-1208, Idaho Code, the certificate shall be revoked or suspended as provided in this chapter.

Approved March 20, 1996.

CHAPTER 376
(H.B. No. 685, As Amended, As Amended in the Senate)

AN ACT

RELATING TO A RESORT COUNTY LOCAL OPTION SALES OR USE TAX; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 26, TITLE 63, IDAHO CODE, TO STATE LEGISLATIVE FINDINGS, TO DEFINE A RESORT COUNTY, TO PROVIDE AUTHORITY FOR A RESORT COUNTY SALES OR USE TAX, TO CREATE A COUNTY PROPERTY TAX RELIEF FUND, TO PROVIDE GENERAL PROVISIONS FOR THE TAX, TO PROVIDE A DISTRIBUTION FORMULA AND TO PROVIDE PURPOSES FOR MONEYS DISTRIBUTED TO A CITY, TO PROVIDE COORDINATION WITH CITY LOCAL OPTION NONPROPERTY TAXES, AND TO PROVIDE FOR COLLECTION AND ADMINISTRATION OF RESORT COUNTY SALES OR USE TAXES BY THE STATE TAX COMMISSION.

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

SECTION 1. That Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 26, Title 63, Idaho Code, and to read as follows:

CHAPTER 26
RESORT COUNTY LOCAL OPTION SALES OR USE TAX

63-2601. LEGISLATIVE FINDINGS. The legislature finds that the increase in growth of the population of certain resort counties and the influx of great numbers of people traveling to those counties for sport, recreation and business have created a drain on the resort county infrastructure that is borne to an inequitable degree by the property owners of the resort county. In addition, the close proximity of a large population center to a resort county has the additional effect of requiring the resort county to service the needs of persons traveling to the resort county on a short-term basis, which effect

must also be met by the property owners of the resort county to an inequitable degree. The legislature finds that it is both equitable and desirable to shift this tax burden in part from the property owners of the resort county to those visitors partaking of the services of the county. The legislature also finds that this object must be subject to the approval and supervision of the voters of the resort county both through their elected officials and through direct input at the ballot box.

63-2602. DEFINITION OF RESORT COUNTY. As used in this chapter, a "resort county" is any county having more than eighty thousand (80,000) population, within fifty (50) miles of a county having a population of more than three hundred fifty thousand (350,000), and which county derives a major portion of its economic well-being from businesses catering to recreational needs and meeting needs of people traveling to that destination county for an extended period of time.

63-2603. AUTHORITY FOR COUNTY SALES OR USE TAX. The voters of a resort county are given the authority to authorize their county government to adopt, implement and collect a sales tax or use tax upon all sales, without exception, that are subject to taxation under chapter 36, title 63, Idaho Code. The county commissioners of any such resort county are hereby given the freedom and authority to adopt, implement and collect a sales or use tax as provided herein if approved by the required sixty percent (60%) of county voters voting in an election conducted on the fourth Tuesday in May or on the first Tuesday after the first Monday in November. No local option sales or use tax proposal may be presented to resort county voters for approval or modification for a period of one (1) year after an election to approve or disapprove such tax. The question presented to the voters of a resort county shall state the rate of the local sales or use tax, the duration of the tax, which shall not exceed ten (10) years, and the purpose of the tax.

63-2604. COUNTY PROPERTY TAX RELIEF FUND. (1) Any resort county which implements a sales or use tax pursuant to this chapter shall create and establish in the office of the county treasurer a county property tax relief fund into which shall be placed a minimum of fifty percent (50%) of any revenue received from the county sales or use tax. On or before the Tuesday following the first Monday in September of each year, the county treasurer shall submit to the board of county commissioners and the state tax commission a statement showing the balance in the county property tax relief fund as of September 1 of that year.

(2) No later than October 10, the balance in the county property tax relief fund, as of September 1, shall be distributed to the county and any cities within the county entitled to receive revenues from the county sales or use tax. Moneys distributed shall be in an amount proportional to the percentage the previous year's ad valorem portion of the budget subject to the limitations of section 63-2220A, Idaho Code, for the county and each city bears to the previous year's total ad valorem portion of the budget subject to the limitations of section 63-2220A, Idaho Code, for the county and all cities in the county.

(3) The dollar amount subject to the limitations of section 63-2220A, Idaho Code, shall be the sum of the dollar amount of the portion of ad valorem taxes certified to the board of county commissioners under section 63-624A, Idaho Code, and subject to the limitations of section 63-2220A, Idaho Code, as if no county property tax relief fund moneys were to be distributed, and the dollar amount to be received from the property tax relief fund. The division of the resulting sum by the value subject to taxation is a quotient that shall not exceed the levy limits prescribed by Idaho Code. If these limitations are exceeded, the board of county commissioners shall reduce any applicable budget request to comply with this section. The levy set to fund this portion of the budget shall be calculated based on the budget subject to the limitations of section 63-2220A, Idaho Code, less the money to be received from the county property tax relief fund.

63-2605. GENERAL PROVISIONS. Any ordinance assessing a tax pursuant to this chapter shall contain a finding by the board of county commissioners based upon evidence presented to it that the conditions set forth in section 63-2602, Idaho Code, exist and shall provide the methods for reporting and collecting taxes due. Taxes collected pursuant to any such ordinance shall be remitted to the county official designated in such ordinance or other such official contracting, pursuant to this chapter, with the county to provide collection services, and shall constitute revenue of the county available for any lawful purpose approved by county voters subject to the provisions of this chapter. In any election, the ordinance submitted to county voters shall: (1) state and define the sales or use tax to be approved; (2) state the exact rate of the tax to be assessed; (3) state the exact purpose or purposes for which the revenues derived from the sales or use tax shall be used; (4) state the manner and formula by which any portion of the tax revenue collected shall be distributed to cities within the resort county; and (5) state the duration of the tax which shall not be in excess of ten (10) years. No tax shall be redefined, no rate shall be increased, no purpose shall be modified, and no duration shall be extended without subsequent approval of county voters. The county clerk of any county adopting an ordinance, or any amendment thereto, shall forward a copy of the ordinance or amendment to the state controller, the chairman of the state tax commission and the chairman of the state board of tax appeals.

63-2606. DISTRIBUTION FORMULA -- GENERAL PROVISIONS. (1) At the end of each fiscal year, county sales or use tax not placed in the county property tax relief fund shall be distributed to the cities in the resort county according to the formula made a part of the ordinance submitted to the county voters.

(2) All resort county property tax revenues distributed to a city shall be subject to the same purpose or purposes as submitted to the county voters as described in section 63-2605, Idaho Code, and for no other purpose.

63-2607. COORDINATION WITH CITY LOCAL OPTION NONPROPERTY TAXES. In the event that a city has implemented a resort city local option

nonproperty tax as described in sections 50-1044 through 50-1049, Idaho Code, or in sections 50-1050 through 50-1055, Idaho Code, that city shall not be entitled to its share of the distribution of resort county sales or use taxes as described in section 63-2606, Idaho Code. In addition, the county local option sales or use tax shall have no effect within a city that has implemented a city local option nonproperty tax.

63-2608. COLLECTION AND ADMINISTRATION OF LOCAL OPTION SALES OR USE TAXES BY THE STATE TAX COMMISSION -- DISTRIBUTION. (1) Any resort county which has levied a tax pursuant to section 63-2603, Idaho Code, may contract with the state tax commission for the collection and administration of such taxes in like manner and under definitions and rules of the state tax commission for the collection and administration of the state sales or use tax under chapter 36, title 63, Idaho Code. A county which levies such tax shall have the right to review and audit the records of collection thereof maintained by the commission and the returns of taxpayers relating to such tax. Alternatively, such county shall have authority to administer and collect such tax.

(2) All revenues collected by the state tax commission pursuant to section 63-2603, Idaho Code, shall be distributed as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid through the state refund account and those moneys are continuously appropriated.

(b) An amount of money equal to such fee as may be agreed upon between the state tax commission and such county for the actual cost of the collection and administration of the tax. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost at the end of each fiscal year shall be distributed as provided in subsection (2)(c) of this section.

(c) All remaining moneys received pursuant to this chapter shall be placed in a fund designated by the state controller and remitted monthly to the county levying such sales or use tax.

Approved March 20, 1996.

CHAPTER 377
(H.B. No. 598, As Amended in the Senate)

AN ACT

RELATING TO TEACHERS AND SCHOOL DISTRICTS; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-512B, IDAHO CODE, TO PROVIDE A LIMITATION ON THE DUTY OF A TEACHER AND SCHOOL DISTRICT TO WARN CONCERNING A STUDENT'S SUICIDAL TENDENCIES.

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

SECTION 1. That Chapter 5, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-512B, Idaho Code, and to read as follows:

33-512B. SUICIDAL TENDENCIES -- DUTY TO WARN. (1) Notwithstanding the provisions of section 33-512(4), Idaho Code, neither a teacher nor a school district shall have a duty to warn of the suicidal tendencies of a student absent the teacher's knowledge of direct evidence of such suicidal tendencies.

(2) "Direct evidence" means evidence which directly proves a fact without inference and which in itself, if true, conclusively establishes that fact. Direct evidence would include unequivocal and unambiguous oral or written statements by a student which would not cause a reasonable teacher to speculate regarding the existence of the fact in question; it would not include equivocal or ambiguous oral or written statements by a student which would cause a reasonable teacher to speculate regarding the existence of the fact in question.

(3) The existence of the teacher's knowledge of the direct evidence referred to in subsections (1) and (2) of this section shall be determined by the court as a matter of law.

Approved March 20, 1996.

CHAPTER 378
(H.B. No. 860, As Amended in the Senate)

AN ACT

APPROPRIATING MONEYS FOR VOCATIONAL EDUCATION FOR FISCAL YEAR 1997; EXPRESSING LEGISLATIVE INTENT; 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 for 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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
A. ADMINISTRATION AND SUPERVISION:						
FROM:						
General Fund	$1,452,500	$217,400	$19,400			$ 1,689,300
Federal Grant Fund	174,200	81,300				255,500
TOTAL	$1,626,700	$298,700	$19,400			$ 1,944,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
B. GENERAL PROGRAMS:						
FROM:						
General Fund	$ 194,400	$ 36,700	$ 6,800	$ 6,457,100		$ 6,695,000
Federal Grant Fund	192,500	15,100		4,939,100		5,146,700
Hazardous Materials/ Waste Enforcement Fund				66,800		66,800
Hazardous Waste, Emergency and Monitoring Fund				61,900		61,900
TOTAL	$ 386,900	$ 51,800	$ 6,800	$11,524,900		$11,970,400
C. POST-SECONDARY PROGRAMS:						
FROM:						
General Fund					$23,472,900	$23,472,900
Unrestricted Fund					214,600	214,600
TOTAL					$23,687,500	$23,687,500
D. DISPLACED HOMEMAKER PROGRAM:						
FROM:						
General Fund				$ 30,600		$ 30,600
Displaced Homemaker Fund		$ 5,000		135,000		140,000
Federal Grant Fund				369,400		369,400
TOTAL		$ 5,000		$ 535,000		$ 540,000
E. IDAHO STATE COUNCIL ON VOCATIONAL EDUCATION:						
FROM:						
Federal Grant Fund	$ 104,700	$ 45,300				$ 150,000
GRAND TOTAL	$2,118,300	$400,800	$26,200	$12,059,900	$23,687,500	$38,292,700

SECTION 2. It is legislative intent that no funds that could otherwise be used in vocational education and applied technology programs be expended to support the State Council on Vocational Education.

SECTION 3. There is hereby reappropriated to the State Board for Vocational Education for the Division of Vocational Education, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any General Fund appropriation contained in Section 1, Chapter 243, Laws of 1995, to be used for nonrecurring expenditures for the period July 1, 1996, through June 30, 1997.

SECTION 4. The reappropriation granted in Section 3 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General

Fund on June 30, 1996, is zero, the reappropriation in Section 3 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1996, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the Division of Vocational Education bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 20, 1996.

CHAPTER 379

(H.B. No. 754, As Amended, As Amended, As Amended in the Senate)

AN ACT

RELATING TO STUDENTS USING OR UNDER THE INFLUENCE OF CONTROLLED SUBSTANCES IN PUBLIC SCHOOLS; AMENDING CHAPTER 2, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-210, IDAHO CODE, TO PROVIDE FOR COMPLIANCE PROCEDURES UNDER SECTION 37-2732C, IDAHO CODE, TO PROVIDE DEFINITIONS AND TO PROVIDE FOR TRAINING; AND AMENDING SECTION 20-516, IDAHO CODE, TO PROVIDE GROUNDS FOR TAKING A JUVENILE INTO CUSTODY IF THE JUVENILE IS BELIEVED TO HAVE COMMITTED AN ACT WHICH WOULD BE A MISDEMEANOR IF COMMITTED BY AN ADULT.

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 33-210, Idaho Code, and to read as follows:

33-210. STUDENTS USING OR UNDER THE INFLUENCE OF CONTROLLED SUBSTANCES. (1) It is legislative intent that parental involvement in all aspects of a child's education in the public school system remain a priority in administrative policy. Drug prevention programs and counseling for students under the custodial and tutelary care of the public schools are no exception. Consequently, any student who voluntarily discloses using or being under the influence of any controlled substance defined by section 37-2732C, Idaho Code, before he or she is reasonably suspicioned to be in violation of section 37-2732C, Idaho Code, shall be provided anonymity to the extent that disclosure is held confidential on a faculty "need to know" basis, that notification is provided to parents, the legal guardian or child's custodian and that available counseling at the school level is offered. However, once a student is reasonably suspicioned to be in violation of section 37-2732C, Idaho Code, regardless of any previous voluntary disclosure, school administrators shall immediately initiate procedures established by the district board of trustees to seek law enforcement evaluation of the student; such evaluation possibly resulting in transfer of school custodial responsibility to that of law enforcement in

accordance with section 20-516, Idaho Code. The fact that a student has previously disclosed use of a controlled substance shall not be deemed a factor in determining reasonable suspicion at a later date.

(2) For the purposes of this section, the following definitions shall apply:

(a) "Intervention trained" means public school educators, counselors or administrators who have completed a state accredited course related to illegal drugs, their physical characteristics, physiological effects and how student behavioral changes typically associated with the use of such products may be evidenced in the classroom; or before May 31, 1997, those educators, counselors and administrators who have completed similar training and who have a minimum of two (2) years experience as intervention team members. The latter are exempt from additional training to meet "intervention trained" standards in effect after May 31, 1997.

(b) "Reasonable cause/suspicion" means an act of judgment by an intervention trained educator, counselor or administrator which leads to a reasonable and prudent belief that a student is in violation of "use" or "under the influence" provisions of section 37-2732C, Idaho Code.

(3) By September 1, 1996, the state department of education, in cooperation with the chief certification officer of the state board of education, shall develop course materials and standards appropriate to establishing intervention training as an accredited option among public education recertification electives. Such training shall be made available not later than May 31, 1997.

(4) The process leading to law enforcement evaluation of a reasonably suspected student is a responsibility of the district board of trustees, the specifics of which shall be based on procedures developed within each district to insure that reasonable suspicion, as defined above, is not confused with intentional harassment of a difficult student. District policy formulated to meet the provisions of section 37-2732C, Idaho Code, and this section, together with the process by which law enforcement may assume custodial responsibility of a reasonably suspected student, shall be made available to each student, parent, guardian or custodian by August 31, 1997, and afterwards at the time of original registration of the student in a district school. The procedure for parental, legal guardian or custodian notification will be included.

SECTION 2. That Section 20-516, Idaho Code, 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 <u>misdemeanor or</u> 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 upon a written order or warrant signed by a judge. The judge may issue the order or warrant after finding that there is reasonable cause to believe that the juvenile 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.

Approved March 20, 1996.

CHAPTER 380
(H.B. No. 805, As Amended)

AN ACT

RELATING TO HORSE RACING AND DOG RACING; AMENDING SECTION 54-2502, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2508, IDAHO CODE, TO SPECIFY APPLICATION IN THE EVENT OF LIVE RACES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2512, IDAHO CODE, TO GOVERN PARI-MUTUEL BETTING INCLUDING BETTING AT SIMULCAST SITES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2513, IDAHO CODE, TO PROVIDE DISTRIBUTION OF DEPOSITS INCLUDING DEPOSITS FROM SIMULCAST RACES AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-2502, Idaho Code, be, and the same is hereby amended to read as follows:

54-2502. DEFINITIONS. Unless the context otherwise requires, words and phrases as used herein shall mean:

"Commission" ~~shall~~ means the Idaho state racing commission, hereinafter created.

"Host facility" means the racetrack at which the race is run, or the facility which is designated as the host facility if the race is run in a jurisdiction which is not participating in the interstate combined wagering pool.

"Host jurisdiction" means the jurisdiction in which the host facility is located.

"Interstate common wagering pool" means a pari-mutuel pool established in one (1) jurisdiction which is combined with comparable pari-mutuel pools from one (1) or more racing jurisdictions. Such pool is established for the purpose of establishing pay-off prices in the various jurisdictions.

"Persons" ~~shall~~ means and includes individuals, firms, corporations and associations.

"Race meet" ~~shall~~ means and includes any exhibition of thorough-

bred, purebred, and/or registered horse racing, mule racing or dog racing, where the pari-mutuel system of wagering is used. Singular ~~shall~~ includes the plural and plural ~~shall~~ includes the singular; and words importing one gender shall be regarded as including all other genders.

"Racing jurisdiction" or "jurisdiction" means a governmental jurisdiction responsible for the regulation of pari-mutuel racing in that jurisdiction and which is a member of the association of racing commissioners international.

"Gross daily receipts" ~~shall~~ means the total of all sums deposited in all pools for each race day.

"Pool" ~~shall~~ means the total sum of all moneys wagered in each race for each type of bet. Types of bets include win, place, show, quinella, daily double, exacta, trifecta, etc., and such other types as are approved by the commission from time to time.

"Horsemen's group" means an organization composed of licensed owners, breeders, and/or trainers duly registered with the secretary of state and recognized by the Idaho racing commission as the majority of the horsemen at the track.

SECTION 2. That Section 54-2508, Idaho Code, be, and the same is hereby amended to read as follows:

54-2508. LICENSE -- APPLICATION THEREFOR -- TYPE AND NUMBER OF RACES -- FEE PER DAY -- REFUND -- CANCELLATION -- HEARING. It shall be unlawful for any person to hold any race meet in this state without having first obtained and having in force and effect a license issued by the commission as in this act provided. Every person making application for a license to hold a race meet, under the provisions of this act, shall file an application with the commission which shall set forth the time, place and number of days such will continue, and such other information as the commission may require.

No person who has been convicted of any crime involving moral turpitude shall be issued a license of any kind, nor shall any license be issued to any person who has violated the terms or provisions of this act, or any of the rules ~~and regulations~~ of the commission, or who has failed to pay any of the fees, taxes or moneys required under the provisions of this act.

All applications to hold race meets shall be submitted to the commission which shall act upon such applications within thirty (30) days. The commission shall be the sole judge of whether or not the race meet shall be licensed and the number of days the meet shall continue.

The license issued shall specify the kind and character of the race meets to be held, the number of days the race meet shall continue and the number of races per day, which, in the event of live races, shall not be less than six (6). The licensee shall pay in advance of the scheduled race meet to the state treasurer a fee of not less than twenty-five dollars ($25.00) for each day of racing, which fees shall be placed in the public school income fund of the state of Idaho. Provided, that if unforeseen obstacles arise, which prevent the holding, or completion of any race meet, the license fee held may be refunded the licensee, if the commission deems the reason for failure to hold

or complete the race meet sufficient. Any unexpired license held by any person who violates any of the provisions of this act, pursuant thereto, or who fails to pay to the commission any and all sums required under the provisions of this act, shall be subject to cancellation and revocation by the commission. Such cancellation shall be made only after a summary hearing before the commission, of which three (3) days' notice in writing shall be given the licensee, specifying the grounds for the proposed cancellation, and at which hearing the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation.

SECTION 3. That Section 54-2512, Idaho Code, be, and the same is hereby amended to read as follows:

54-2512. PARI-MUTUEL BETTING -- OTHER BETTING ILLEGAL. (1) Any licensee conducting a race meet under this act may provide a place or places in the race meet grounds or enclosure at which such licensee may conduct and supervise the use of the pari-mutuel system by patrons on the result of the races conducted by such licensee at such race meet and, upon written application by a licensee and approval by the commission, on the result of simulcast and/or televised races. The commission shall issue no more than one (1) license to simulcast per live race meet licensee and there shall be no more simulcasting sites in the state than there are licensed live race meet sites.

(2) (a) Licenses authorizing simulcast and/or televised races will be regulated by the commission, in addition to ~~their~~ its other responsibilities, for the purpose of enhancing, promoting, and protecting the live race industry in the state of Idaho. No license authorizing simulcasting and/or televised races shall be issued ~~where live race meets have not been conducted--annually--at the facility named in the application during the preceding two (2) years--and, with the exception of pari-mutuel greyhound racing, no license authorizing simulcasting and/or televised races--shall--be granted--if--such--live--race--meet facility does not run at least ninety percent (90%) of the number of live races--that--were--conducted--in--1989~~ to or renewed for persons that are not also licensed to conduct live race meets in the state of Idaho. Persons applying for a simulcast and/or televised race license shall have annually conducted live race meets in the state of Idaho during the preceding two (2) calendar years.

(b) In addition to the restrictions recited in paragraph (a) of this subsection, live horse race licensees that have had an average daily live race handle of more than sixty thousand dollars ($60,000) during the last calendar year in operation shall not have a license authorizing simulcasting and/or televised races issued or renewed if the licensee has not run in the calendar year immediately preceding the year for which the application for a license is being made for at least ninety percent (90%) of the number of live races that were conducted by that licensee in 1989.

(c) The commission may issue a license authorizing simulcast and/or televised races to a live horse race licensee only after that licensee has conducted at that facility a minimum of forty (40) live horse races in each of the two (2) calendar years pre-

ceding the application for such license.

(3) ~~(a)-The--commission--shall--not-grant-a-license-that-allows-a simulcast-and/or-televised-broadcast-to-occur-within--seventy-five (75)-miles-of-a-licensed-live-race-meet-at-another-facility-within the-state,-without-written-permission-from-each-facility-involved. (b)--In--addition--to-the-restrictions-recited-in-paragraph-(a)-of this-subsection,-in-counties-whose-population-exceeds-one--hundred fifty-thousand-(150,000),-the-commission-shall-not-grant-a-license that-allows-a-simulcast-and/or-televised-broadcast-to-occur-within the--fourteen--(14)--days--prior--to--a-licensed-live-race-meet-at another-facility-within-the-state,-without-written-permission-from each-facility-involved.~~

~~(4)--To-further-protect-the-live-race-industry,-a-petition,-signed by-not-less-than-seventy-five-(75)-bona-fide-owners,--breeders--and/or trainers--may-be-submitted-to-the-commission-which-will-require-a-public-hearing-to-be-held-regarding-the-reissuance-of-a-license-authorizing-simulcasting-and/or-television-broadcasting-of-races.~~

Such pari-mutuel system conducted at such race meet shall not under any circumstances, if conducted under the provisions of this act and in conformity thereto and to the rules ~~and-regulations~~ of the commission, ~~to~~ be held or construed to be unlawful, other statutes of this state to the contrary notwithstanding.

(~~5~~4) The participation by a licensee in an interstate combined wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located.

(~~6~~5) Pari-mutuel taxes or commissions may not be imposed on any amounts wagered in an interstate combined wagering pool other than amounts wagered within this jurisdiction.

(~~7~~6) It shall be unlawful to conduct pool selling, book making, or to circulate ~~hand-books~~ handbooks, or to bet or wager on a race of any licensed race meet, other than by the pari-mutuel system; and it shall further be unlawful knowingly to permit any minor to use the pari-mutuel system.

SECTION 4. That Section 54-2513, Idaho Code, be, and the same is hereby amended to read as follows:

54-2513. HORSE RACING -- DISTRIBUTIONS OF DEPOSITS -- BREAKAGE. (A) Each licensee conducting the pari-mutuel system for live and simulcast horse races having an average daily handle in excess of one hundred thousand dollars ($100,000) shall distribute all sums deposited in any pool as follows:

(1) Eighty-two per cent (82%) of any win, place or show pool to the winner thereof, and eighteen per cent (18%) to the licensee;

(2) Seventy-seven and one-quarter per cent (77.25%) of all two (2) horse exotic wagers including, but not limited to, daily doubles and quinellas to the winner thereof, three-quarters of one per cent (.75%) to the racing commission for deposit in the racing commission account, and twenty-two per cent (22%) to the licensee;

(3) Seventy-five and one-quarter per cent (75.25%) of all three (3) or more horse exotic wagers including, but not limited to, trifecta and twin-trifecta to the winner thereof, three-quarters

of one per cent (.75%) to the racing commission for deposit in the racing commission account, and twenty-four per cent (24%) to the licensee.

(B) Each licensee conducting the pari-mutuel system for live and simulcast horse races having an average daily handle in excess of one hundred thousand dollars ($100,000) shall retain the sums deposited in any pool as required in subsection (A) of this section, for distribution and payment based upon gross daily receipts as follows:

(1) One and one-quarter per cent (1.25%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission, for deposit in the racing commission account, which is hereby created in the dedicated fund.

(2) One-half of one per cent (.50%) of gross daily receipts from horse races, separately stated, shall be paid to the Idaho state racing commission for deposit in the track distribution account, which is hereby created in the dedicated fund, for further distribution to certain Idaho horse race tracks, defined as follows:

a. Recipient horse racing tracks shall be those which, during the race meet year of distribution, have an average daily handle of less than sixty thousand dollars ($60,000);

b. Distributions to recipient horse racing tracks shall be weighted proportionately on the number of days raced during the year of distribution.

All moneys in the track distribution account are hereby appropriated to the commission for payment as required by this section. Payments to horse racing tracks shall be made annually but not later than December 15.

(3) One-half of one per cent (.50%) of gross daily receipts from horse races, separately stated shall be paid by the licensee to the commission for deposit in the breed distribution account, which is hereby created in the dedicated fund, for payment by the commission in proportion to the handle generated by each horse breed, to lawfully constituted representatives of each horse breed, to benefit owners and/or breeders of Idaho bred racing thoroughbreds, racing quarter horses, racing Appaloosas, racing paints and racing Arabians, subject to the approval of the commission. Moneys in the breed distribution account on December 31 of each year which have not been distributed by the commission shall be paid to the public school income fund.

All moneys in the breed distribution account are hereby appropriated to the commission for payment as required by this section. Payments to representatives shall be made quarterly.

(4) From the balance of gross daily receipts remaining with the licensee after the distributions required in subsection (B)(1), (2), and (3) of this section from horse races, the following amounts shall be paid or retained:

a. From the first $20,000 of gross daily receipts, the licensee shall retain the entire amount;

b. From the next $10,000 of gross daily receipts (gross daily receipts between $20,000 and $30,000), the public school income fund and the equine education account shall each receive one-eighth of one per cent (.125%), and the licensee shall retain the balance;

c. From the next $10,000 of gross daily receipts (gross daily receipts between $30,000 and $40,000), the public school income fund and the equine education account shall each receive sixty-two and one-half hundredths per cent (.625%), and the licensee shall retain the balance;

d. From all amounts of over $40,000 of gross daily receipts, the public school income fund and the equine education account shall each receive one and one-eighth per cent (1.125%), and the licensee shall retain the balance.

The public schools' and the equine education account's share shall be paid by the licensee to the racing commission for deposit in the public school income fund or the equine education account as appropriate. The licensee's percentage shall be retained by the licensee.

(C) Each licensee conducting the pari-mutuel system for live and simulcast horse races having an average daily handle of one hundred thousand dollars ($100,000) or less shall distribute all sums deposited in any pool as follows:

(1) Seventy-seven per cent (77%) of any win, place or show pool to the winner thereof, and twenty-three per cent (23%) to the licensee;

(2) Seventy-six and one-quarter per cent (76.25%) of all other pools to the winner thereof, three-quarters of one per cent (.75%) to the racing commission for deposit in the racing account, and twenty-three per cent (23%) to the licensee.

(D) Each licensee conducting the pari-mutuel system for live and simulcast horse races shall retain twenty-three per cent (23%) of all sums deposited in any pool, for distribution and payment based upon gross daily receipts as follows:

(1) One and one-quarter per cent (1.25%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission, for deposit in the racing commission account.

(2) One-half of one per cent (.50%) of gross daily receipts from horse races, separately stated, shall be paid to the Idaho state racing commission for deposit in the track distribution account, for further distribution to certain Idaho horse race tracks, defined as follows:

a. Recipient horse racing tracks shall be those which, during the race meet year of distribution, have an average daily handle of less than sixty thousand dollars ($60,000);

b. Distributions to recipient horse racing tracks shall be weighted proportionately on the number of days raced during the year of distribution.

All moneys in the track distribution account are hereby appropriated to the commission for payment as required by this section. Payments to horse racing tracks shall be made annually but not later than December 15.

(3) One-half of one per cent (.50%) of gross daily receipts from horse races, separately stated shall be paid by the licensee to the commission for deposit in the breed distribution account, for payment by the commission in proportion to the handle generated by each horse breed, to lawfully constituted representatives of each horse breed, to benefit owners and/or breeders of Idaho bred racing thoroughbreds, racing quarter horses, racing Appaloosas,

racing paints and racing Arabians, subject to the approval of the commission. Moneys in the breed distribution account on December 31 of each year which have not been distributed by the commission shall be paid to the public school income fund. All moneys in the breed distribution account are hereby appropriated to the commission for payment as required by this section. Payments to representatives shall be made quarterly.

(4) Twenty and three-quarters per cent (20.75%) of gross daily receipts from horse races shall be paid or retained as follows:

a. From the first $20,000 of gross daily receipts, the licensee shall retain twenty and three-quarters per cent (20.75%);

b. From the next $10,000 of gross daily receipts (gross daily receipts between $20,000 and $30,000), the public school income fund and the equine education account shall each receive one-eighth of one per cent (.125%), and the licensee shall retain twenty and one-half per cent (20.50%);

c. From the next $10,000 of gross daily receipts (gross daily receipts between $30,000 and $40,000), the public school income fund and the equine education account shall each receive sixty-two and one-half hundredths per cent (.625%), and the licensee shall retain nineteen and one-half per cent (19.50%);

d. From all amounts of over $40,000 of gross daily receipts, the public school income fund and the equine education account shall each receive one and one-eighth per cent (1.125%), and the licensee shall retain eighteen and one-half per cent (18.50%).

The public schools' share and the equine education account's share shall be paid by the licensee to the racing commission for deposit in the public school income fund or the equine education account as appropriate. The licensee's percentage shall be retained by the licensee.

(E) Each licensee may retain the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of ten (10), known as breakage, and the total amount of unclaimed tickets at the termination of the time allowed by rule ~~and regulation~~ of the commission.

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

Approved March 20, 1996.

CHAPTER 381
(H.B. No. 786)

AN ACT

RELATING TO NET VALUE OF ORE; AMENDING SECTION 47-1202, IDAHO CODE, TO CLARIFY THE DEDUCTION OF TRANSPORTATION COSTS FROM THE VALUE OF

ORE FOR TAXATION PURPOSES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 47-1202, Idaho Code, be, and the same is hereby amended to read as follows:

47-1202. NET VALUE OF ORE TO BE USED AS MEASURE OF TAX -- HOW DETERMINED. For the purpose of measuring and determining the amount of tax to be paid under the provisions of section 47-1201, Idaho Code, the royalties as defined in subsection (b) of section 47-1201, Idaho Code, or the net value of ore mined shall be computed under one (1) of the following methods at the election of the taxpayer. Such election, once made, shall be binding for all succeeding years unless the taxpayer secures permission from the state tax commission to change to another method:

(a) Ores mined within the state shall be valued by deducting from the gross value of the ore, all costs of mining and processing such ore, using the formula prescribed in section 613 of the Internal Revenue Code and Treasury Regulation 1.613-5 for computation of the net income from mining for depletion purposes, less the deduction of depletion as computed under section 613 of the Internal Revenue Code and Treasury Regulation 1.613-5; or

(b) Ores mined within the state shall be valued using the gross value determined by the U.S. Department of the Interior for computation of the value of minerals on public lands for federal royalty purposes, less the following deductions:

(1) all costs of mining <u>and transporting</u> such ore to the point at which ~~valued~~ <u>the value for federal royalty purposes is determined by measurement of the quantity of ore mined;</u> these costs to include only those directly incurred in and attributable to the actual mining <u>and transportation</u> operation in the state of Idaho, and

(2) the applicable portion of the federal deduction for depletion, allocated on the ratio of the gross value of the ore used for this computation, to the gross value of the ore used in the federal depletion computation.

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, 1996.

CHAPTER 382
(H.B. No. 769, As Amended)

AN ACT

RELATING TO BINGO AND RAFFLES; AMENDING SECTION 67-7702, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 67-7703, IDAHO CODE, TO LIMIT AUTHORITY OF THE BINGO ADVISORY BOARD; AMENDING SECTION

67-7705, IDAHO CODE, TO PROVIDE FOR COMPENSATION OF THE BINGO ADVISORY BOARD AND TO PROVIDE FOR A VICE-CHAIRMAN; AMENDING SECTION 67-7707, IDAHO CODE, TO REVISE PROVISIONS FOR PERSONS UNDER THE AGE OF EIGHTEEN TO PLAY BINGO; AMENDING SECTION 67-7709, IDAHO CODE, TO REVISE REQUIREMENTS FOR ACCOUNTING AND USE OF BINGO PROCEEDS; AMENDING SECTION 67-7710, IDAHO CODE, TO REVISE RAFFLE REQUIREMENTS; AMENDING SECTION 67-7711, IDAHO CODE, TO REQUIRE DRIVER'S LICENSE NUMBERS; AMENDING SECTION 67-7712, IDAHO CODE, TO PROVIDE FOR REPORTS INSTEAD OF AUDITS; AMENDING SECTION 67-7713, IDAHO CODE, TO REVISE EXEMPTION FROM LICENSURE REQUIREMENTS; AMENDING SECTION 67-7715, IDAHO CODE, TO REVISE LICENSURE REQUIREMENTS FOR PERSONS OR ENTITIES THAT MANUFACTURE, SELL, DISTRIBUTE, FURNISH OR SUPPLY ANY GAMING DEVICE, EQUIPMENT OR MATERIAL IN THIS STATE OR FOR USE IN THIS STATE, TO PROVIDE REPORTS, TO PROVIDE FEES AND TO PROVIDE FOR SUSPENSION OR REVOCATION OF THE LICENSE; 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.~~

(a) Upon approval by the bingo advisory board a licensee may offer bingo games in which players are allowed to select their own numbers if the cards used to conduct the games have controls that provide an audit trail adequate to determine all winning number combinations.

(b) Two-part disposable cards may be used if the following conditions are met:

(i) The cards are printed on two-part, self-duplicating paper that provides for an original and a duplicate copy;

(ii) Players shall mark their numbers on each card in a distinct, clear, and legible manner prior to separation of the duplicate and original cards. Operators shall establish and set forth in plain view house rules setting out any conditions by which an entry may be added, deleted or changed prior to separation. Any changes must be verified by a worker

authorized by the bingo manager.

(iii) The player retains and plays the duplicate copy. All winning cards and their duplicate copies shall be retained by the operator as a part of its daily bingo records.

(c) Upon approval by the bingo advisory board, bingo games may also include bonanzas and other approved blackout games.

(d) 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~~ preprinted winning 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.

(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.

(6) "Gross revenues" shall mean all moneys paid by players during a bingo game or session for the playing of bingo or raffle event 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.

(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 Section 67-7703, Idaho Code, be, and the same is hereby amended 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 Section 67-7705, Idaho Code, be, and the same is hereby amended to read as follows:

67-7705. QUORUM -- MEETINGS -- MINUTES -- COMPENSATION. 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~~ or elect one (1) of its members to be chairman, one (1) of its members to be vice-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. Members of the bingo advisory board shall receive compensation as provided in section 59-509(b), Idaho Code. Members are entitled to reimbursement for reasonable travel expenses incurred in the performance of their duties as a member, as provided by law.

SECTION 4. That Section 67-7707, Idaho Code, be, and the same is hereby amended to read as follows:

67-7707. BINGO BY CHARITABLE OR NONPROFIT ORGANIZATIONS. (1) It is lawful for a charitable or nonprofit organization to conduct 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, any member of 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. No person under the age of eighteen (18) may play bingo in any game operated by a licensed charitable or nonprofit organization.

SECTION 5. That Section 67-7709, Idaho Code, be, and the same is hereby amended to read as follows:

67-7709. ACCOUNTING AND USE OF BINGO PROCEEDS. (1) All funds received in connection with a bingo game 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 bingo, the payment of compensation, 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 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~~ or one-tenth of one percent (.001%) of annual gross revenues, as per the previous year's annual bingo report whichever is greater may be paid as wages for the conduct of ~~the~~ any one (1) bingo ~~game~~ session. Such pay shall be on an hourly basis and shall be directly related to the preparation, conduct of and cleaning following a bingo ~~game~~ session. 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~~ state lottery commission.

(2) Any charitable or nonprofit organization conducting bingo games pursuant to this chapter shall prepare a statement at the close of its ~~fiscal~~ license year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

(a) The number of bingo ~~games~~ sessions conducted or sponsored by

the licensed organization;

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

(c) The gross revenues of each bingo ~~game~~ session;

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

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

(f) The amount paid to the charitable organization;

(g) ~~The~~ All disbursements from ~~the separate account~~ bingo revenue 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 one hundred dollars ($100)~~ must be documented on a general ledger and submitted with the annual bingo report to the Idaho lottery commission; and

(h) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission must be retained in permanent records with the organization, including the date of each transaction and the name and address of each payee for all prize payments in excess of one hundred dollars ($100).

(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 bingo game 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 ($150,000) from the operation of bingo games shall provide the state lottery with a copy of an annual audit of the bingo operation. The audit shall be performed by an independent ~~certified~~ public accountant and submitted within ninety (90) days after the end of the license year.

SECTION 6. That Section 67-7710, Idaho Code, be, and the same is hereby amended to read as follows:

67-7710. RAFFLES. (1) It is lawful for any charitable organization to conduct raffles in accordance with the provisions of this chapter. Any ~~person or~~ charitable or nonprofit organization who conducts a raffle in violation of any provision of this chapter may be assessed a civil penalty not in excess of ten thousand dollars ($10,000). Additionally, any person knowingly conducting a raffle in violation of any provision of this chapter may be charged under the gambling laws of the state contained in chapter 38, title 18, Idaho Code. It shall not constitute a violation of state law to advertise a charitable raffle conducted pursuant to this section. It is lawful to participate in a charitable raffle conducted pursuant to this chapter. A charitable raffle conducted lawfully pursuant to this chapter is not gambling for purposes of chapter 38, title 18, Idaho Code.

(2) Raffles shall be limited to twelve (12) per charitable orga-

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

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

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

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

(c) The gross revenues of each raffle ~~game~~;

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

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

(f) The amount paid to the charitable organization;

(g) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission.

(6) Every charitable or nonprofit organization whose annual gross revenues exceed one hundred fifty thousand dollars ($150,000) from the operation of raffle events shall provide the state lottery with a copy of an annual report of the raffle events. The audit shall be performed by an independent public accountant and submitted within ninety (90) days after the end of the license year.

SECTION 7. That Section 67-7711, Idaho Code, be, and the same is hereby amended to read as follows:

67-7711. LICENSING PROCEDURE. (1) Any charitable or nonprofit organization not exempt pursuant to section 67-7714, Idaho Code, desiring to operate 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 it determines that the applicant has not met requirements imposed in this act and rules promulgated pursuant 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 bingo session or game or charitable raffle until it has received a license from the state lottery. The license shall expire one (1) year after the 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 bingo session or game or sell charitable raffle tickets before a 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, driver's license number 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, driver's license number 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, driver's license number 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 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;

(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 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 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 organization or persons related to them either by marriage or blood within the second degree shall receive any compensation derived from the proceeds of a bingo ~~game~~ session or raffle regulated under the provisions of this chapter. An organization shall not contract with any person not employed by, or a volunteer for, the organization for the purpose of conducting a bingo ~~game~~ session 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~~ sessions, 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 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.

(5) The organization may apply for the license to coincide with the organization's fiscal year.

SECTION 8. That Section 67-7712, Idaho Code, be, and the same is hereby amended to read as follows:

67-7712. LICENSE FEES -- SUSPENSION OR REVOCATION. (1) Each organization that applies to the state lottery for a license pursuant to this chapter shall pay annually to the state lottery a nonrefundable license fee 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~~ report 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 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 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 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 the person in gaming operations by charitable or nonprofit organizations would be harmful to the proper operation of a lawful bingo or raffle.

(3) The state lottery may, upon its own motion or upon a written verified complaint of any other person, investigate the operation of any gaming purportedly authorized in this chapter. If the state lottery has reasonable cause to believe that any gaming as described in this chapter violates any of the provisions of this chapter or rules 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, or it may refuse to grant a renewal of the license or it may take other action as may be appropriate under this act and any rules promulgated pursuant 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 9. That Section 67-7713, Idaho Code, be, and the same is hereby amended to read as follows:

67-7713. 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 organization conducts a bingo game and the maximum prize offered or paid for any one (1) game of bingo does not exceed two hundred fifty dollars ($250) 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 one thousand dollars ($1,000). A charitable or nonprofit 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~~ thousand dollars ($1,000) in cash or if merchandise used as a prize or prizes does not have a maximum fair market value in excess of ~~one~~ five thousand dollars ($~~1~~5,000).

SECTION 10. That Section 67-7715, Idaho Code, be, and the same is hereby amended to read as follows:

67-7715. VENDORS -- LICENSING -- FEES. (1) No person or entity shall manufacture, sell, distribute, furnish or supply to any person or entity any ~~gambling~~ gaming 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~~ gaming devices and related material and equipment.

(2) Any person or entity that manufactures, sells, distributes, furnishes or supplies any gaming device, equipment or material, in this state or for use in this state shall make application for a vendor 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 it determines that the applicant has not met the requirements imposed in this act and rules promulgated pursuant 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 the license application is approved by the state lottery, the state lottery shall issue a license to the applicant.

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

(a) The name, address, date of birth, driver's license number and social security number of the applicant and if the applicant is a corporation, proprietorship, association, partnership or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the corporation and their spouses, as well as the name and address of the directors and their spouses, or other persons similarly situated.

(b) The locations or persons with which the applicant will provide any gaming device, equipment or material in this state or for use in this state.

(4) Any licensee under this section shall submit an annual revenue report to the Idaho lottery commission within thirty (30) days of the end of the licensed year on the prescribed forms provided by the Idaho lottery commission.

(5) Each applicant shall pay annually to the state lottery a nonrefundable license fee of two hundred dollars ($200) which shall be due upon submission of the application.

(6) 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 with the licensee has violated any provision of this chapter, particularly those in section 67-7712, Idaho Code, or any rule of the lottery commission.

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

Approved March 20, 1996.

CHAPTER 383
(H.B. No. 708, As Amended)

AN ACT

RELATING TO ATTORNEY FEES IN CIVIL ACTIONS; AMENDING SECTION 12-120, IDAHO CODE, TO PROVIDE A DIFFERENT PROCESS FOR THE AWARD OF ATTORNEY FEES IN ACTIONS FOR PERSONAL INJURY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 12-120, Idaho Code, be, and the same is hereby amended to read as follows:

12-120. ATTORNEY FEES IN CIVIL ACTIONS. (1) Except as provided in subsections (3) and (4) of this section, in any action where the amount pleaded is twenty-five thousand dollars ($25,000) or less, there shall be taxed and allowed to the prevailing party, as part of the costs of the action, a reasonable amount to be fixed by the court as attorney fees. For the plaintiff to be awarded attorney fees, for the prosecution of the action, written demand for the payment of such claim must have been made on the defendant not less than ten (10) days before the commencement of the action; provided, that no attorney fees shall be allowed to the plaintiff if the court finds that the defendant tendered to the plaintiff, prior to the commencement of the action, an amount at least equal to ninety-five ~~per cent~~ percent (95%) of the amount awarded to the plaintiff.

(2) The provisions of subsection (1) of this section shall also apply to any counterclaims, cross-claims or third party claims which may be filed after the initiation of the original action. Except that

a ten (10) day written demand letter shall not be required in the case of a counterclaim.

(3) In any civil action to recover on an open account, account stated, note, bill, negotiable instrument, guaranty, or contract relating to the purchase or sale of goods, wares, merchandise, or services and in any commercial transaction unless otherwise provided by law, the prevailing party shall be allowed a reasonable attorney fee to be set by the court, to be taxed and collected as costs.

The term "commercial transaction" is defined to mean all transactions except transactions for personal or household purposes. The term "party" is defined to mean any person, partnership, corporation, association, private organization, the state of Idaho or political subdivision thereof.

(4) In actions for personal injury, where the amount of plaintiff's claim for damages does not exceed twenty-five thousand dollars ($25,000), there shall be taxed and allowed to the claimant, as part of the costs of the action, a reasonable amount to be fixed by the court as attorney fees. For the plaintiff to be awarded attorney fees for the prosecution of the action, written demand for payment of the claim and a statement of claim must have been served on the defendant's insurer, if known, or if there is no known insurer, then on the defendant, not less than sixty (60) days before the commencement of the action; provided that no attorney fees shall be allowed to the plaintiff if the court finds that the defendant tendered to the plaintiff, prior to the commencement of the action, an amount at least equal to ninety percent (90%) of the amount awarded to the plaintiff.

The term "statement of claim" shall mean a written statement signed by the plaintiff's attorney, or if no attorney, by the plaintiff which includes:

(a) An itemized statement of each and every item of damage claimed by the plaintiff including the amount claimed for general damages and the following items of special damages: (i) medical bills incurred up to the date of the plaintiff's demand; (ii) a good faith estimate of future medical bills; (iii) lost income incurred up to the date of the plaintiff's demand; (iv) a good faith estimate of future loss of income; and (v) property damage for which the plaintiff has not been paid.

(b) Legible copies of all medical records, bills and other documentation pertinent to the plaintiff's alleged damages.

If the plaintiff includes in the complaint filed to commence the action, or in evidence offered at trial, a different alleged injury or a significant new item of damage not set forth in the statement of claim, the plaintiff shall be deemed to have waived any entitlement to attorney fees under this section.

(5) In all instances where a party is entitled to reasonable attorney fees and costs under subsections (1), (2), or (3) or (4) of this section, such party shall also be entitled to reasonable post-judgment attorney fees and costs incurred in attempting to collect on the judgment. Such attorney fees and costs shall be set by the court following the filing of a memorandum of attorney fees and costs with notice to all parties and hearing.

Approved March 20, 1996.

CHAPTER 384
(H.B. No. 866)

AN ACT

RELATING TO ATTORNEY'S FEES IN SUITS AGAINST INSURERS; AMENDING SECTION 41-1839, IDAHO CODE, AS AMENDED BY HOUSE BILL NO. 713, SECOND REGULAR SESSION, FIFTY-THIRD IDAHO LEGISLATURE, TO PROVIDE THAT THE SECTION AND SECTION 12-123, IDAHO CODE, SHALL BE THE EXCLUSIVE REMEDIES FOR THE AWARD OF STATUTORY ATTORNEY'S FEES IN ALL ACTIONS BETWEEN INSUREDS AND INSURERS INVOLVING DISPUTES ARISING UNDER POLICIES OF INSURANCE, TO PROVIDE WHEN ATTORNEY'S FEES MAY BE AWARDED BY THE COURT AND TO PROVIDE THAT SECTION 12-120, IDAHO CODE, SHALL NOT APPLY TO ACTIONS BETWEEN INSUREDS AND INSURERS INVOLVING DISPUTES ARISING UNDER ANY POLICY OF INSURANCE AND TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING FOR APPLICATION OF THE ACT TO PENDING CASES.

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

SECTION 1. That Section 41-1839, Idaho Code, as amended by House Bill No. 713, Second Regular Session, Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

41-1839. ALLOWANCE OF ATTORNEY FEES IN SUITS AGAINST INSURERS. (1) Any insurer issuing any policy, certificate or contract of insurance, surety, guaranty or indemnity of any kind or nature whatsoever, which shall fail for a period of thirty (30) days after proof of loss has been furnished as provided in such policy, certificate or contract, to pay to the person entitled thereto the amount justly due under such policy, certificate or contract, shall in any action thereafter brought against the insurer in any court in this state for recovery under the terms of the policy, certificate or contract, pay such further amount as the court shall adjudge reasonable as attorney's fees in such action.

(2) In any such action, if it is alleged that before the commencement thereof, a tender of the full amount justly due was made to the person entitled thereto, and such amount is thereupon deposited in the court, and if the allegation is found to be true, or if it is determined in such action that no amount is justly due, then no such attorney's fees may be recovered.

(3) This section shall not apply as to actions under the ~~workmen's~~ worker's compensation law which are subject to section 72-611, Idaho Code. This section shall not apply to actions against surety insurers by creditors of or claimants against a principal and arising out of a surety or guaranty contract issued by the insurer as to such principal, unless such creditors or claimants shall have notified the surety of their claim, in writing, at least sixty (60) days prior to such action against the surety. The surety shall be authorized to determine what portion or amount of such claim is justly due the creditor or claimant and payment or tender of the amount so determined by the surety shall not be deemed a volunteer payment and shall not prejudice any right of the surety to indemnification and/or subro-

gation so long as such determination and payment by the surety be made in good faith. Nor shall this section apply to actions against fidelity insurers by claimants against a principal and arising out of a fidelity contract or policy issued by the insurer as to such principal unless the liability of the principal has been acknowledged by him in writing or otherwise established by judgment of a court of competent jurisdiction.

(4) Notwithstanding any other provision of ~~law~~ statute to the contrary, this section and section 12-123, Idaho Code, shall provide the exclusive remedy for the award of statutory attorney's fees in all actions between insureds and insurers involving disputes arising under policies of insurance. Provided, attorney's fees may be awarded by the court when it finds, from the facts presented to it that a case was brought, pursued or defended frivolously, unreasonably or without foundation. Section 12-120, Idaho Code, shall not apply to any actions between insureds and insurers involving disputes arising under any policy of insurance.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval. This act shall apply to all cases pending at the time of its passage and approval.

Approved March 20, 1996.

CHAPTER 385
(H.B. No. 713)

AN ACT

RELATING TO ATTORNEY'S FEES IN SUITS AGAINST INSURERS; AMENDING SECTION 41-1839, IDAHO CODE, TO PROVIDE THAT THE SECTION SHALL BE THE EXCLUSIVE REMEDY FOR THE AWARD OF STATUTORY ATTORNEY'S FEES IN ALL ACTIONS BETWEEN INSUREDS AND INSURERS INVOLVING DISPUTES ARISING UNDER POLICIES OF INSURANCE AND TO PROVIDE THAT SECTION 12-120, IDAHO CODE, SHALL NOT APPLY TO ACTIONS BETWEEN INSUREDS AND INSURERS INVOLVING DISPUTES ARISING UNDER ANY POLICY OF INSURANCE; DECLARING AN EMERGENCY AND PROVIDING FOR APPLICATION OF THE ACT TO PENDING CASES.

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

SECTION 1. That Section 41-1839, Idaho Code, be, and the same is hereby amended to read as follows:

41-1839. ALLOWANCE OF ATTORNEY FEES IN SUITS AGAINST INSURERS. (1) Any insurer issuing any policy, certificate or contract of insurance, surety, guaranty or indemnity of any kind or nature whatsoever, which shall fail for a period of thirty (30) days after proof of loss has been furnished as provided in such policy, certificate or contract, to pay to the person entitled thereto the amount justly due under such policy, certificate or contract, shall in any action there-

after brought against the insurer in any court in this state for recovery under the terms of the policy, certificate or contract, pay such further amount as the court shall adjudge reasonable as attorney's fees in such action.

(2) In any such action, if it is alleged that before the commencement thereof, a tender of the full amount justly due was made to the person entitled thereto, and such amount is thereupon deposited in the court, and if the allegation is found to be true, or if it is determined in such action that no amount is justly due, then no such attorney's fees may be recovered.

(3) This section shall not apply as to actions under the workmen's compensation law which are subject to section 72-611, Idaho Code. This section shall not apply to actions against surety insurers by creditors of or claimants against a principal and arising out of a surety or guaranty contract issued by the insurer as to such principal, unless such creditors or claimants shall have notified the surety of their claim, in writing, at least sixty (60) days prior to such action against the surety. The surety shall be authorized to determine what portion or amount of such claim is justly due the creditor or claimant and payment or tender of the amount so determined by the surety shall not be deemed a volunteer payment and shall not prejudice any right of the surety to indemnification and/or subrogation so long as such determination and payment by the surety be made in good faith. Nor shall this section apply to actions against fidelity insurers by claimants against a principal and arising out of a fidelity contract or policy issued by the insurer as to such principal unless the liability of the principal has been acknowledged by him in writing or otherwise established by judgment of a court of competent jurisdiction.

(4) Notwithstanding any other provision of law to the contrary, this section shall provide the exclusive remedy for the award of statutory attorney's fees in all actions between insureds and insurers involving disputes arising under policies of insurance. Section 12-120, Idaho Code, shall not apply to any actions between insureds and insurers involving disputes arising under any policy of insurance.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval. This act shall apply to all cases pending at the time of its passage and approval.

Approved March 20, 1996.

CHAPTER 386
(H.B. No. 799)

AN ACT

RELATING TO LEGISLATIVE POLICY ON HIGHWAY EXPENDITURES; AMENDING SECTION 40-708, IDAHO CODE, TO REVISE THE DATE BY WHICH LOCAL HIGHWAY

JURISDICTIONS SHALL CERTIFY EXPENDITURES OF MONEYS APPORTIONED TO THEM AND DATES BY WHICH LEGAL NOTICE OF THE CERTIFICATION SHALL BE PUBLISHED.

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

SECTION 1. That Section 40-708, Idaho Code, be, and the same is hereby amended to read as follows:

40-708. POLICY OF LEGISLATURE ON EXPENDITURES. (1) It is the declared policy of the legislature that, except as otherwise provided, all highway-user revenues accruing to the state highway account be spent exclusively for the maintenance, construction and development of highways and bridges in the state highway system. By mutual cooperative written agreements, or in the event of emergencies or other unusual circumstances where the financial or general welfare of the people is concerned, two (2) or more units of government may, upon a showing of cause declared and entered upon the minutes of an official meeting of the board, the boards of county, highway district commissioners or the governing body of any cities involved, as the case may be, share jointly the costs of the maintenance, construction or development of highways and bridges in any state, county, district or city system.

(2) All moneys apportioned to the board, counties or highway districts, and cities from the proceeds from the imposition of tax on fuels and from any tax or fee for the registration or operation of motor vehicles for general highway construction and maintenance, bridge and culvert moneys, shall be accounted for as to the actual expenditure to the state controller, as dedicated funds by a certification of the governing unit receiving, budgeting and expending those dedicated funds. The certification shall list the actual funds received for the budgetary period in each category of dedicated funds and the actual expenditure of the used dedicated funds. Any balance of dedicated funds unexpended must be shown and accounted for as a beginning balance in the next regular budget. The certification shall be prepared by the director, county auditor or highway district treasurer or city clerk, and shall be signed by the elected county or highway district commissioners, mayor, council, or board members of the respective reporting governmental unit. The certification shall be made by the ~~15th~~ 31st of ~~November~~ December of each year for the preceding fiscal budget year, and shall be published once as a legal notice between ~~November 15th~~ January 1st and the ~~end~~ 15th of ~~November~~ January. Failure to make certification, failure to publish or the making of false statements in the certification shall subject the person so doing to the penalties prescribed in section 40-207, Idaho Code, or be used as the grounds for removal from office of the offending officials. The state controller is empowered to withhold the distribution of funds for noncompliance with the provisions of this section, but upon compliance shall authorize the distribution to be made.

(3) Moneys remaining unexpended in dedicated funds shall not be budgeted and expended for uses other than the limits of the dedicated fund.

(4) Highway districts may accumulate fund balances at the end of

a fiscal year and carry over those fund balances into the ensuing fiscal year sufficient to achieve or maintain highway district operations on a cash basis. A fund balance is the excess of the assets of a fund over its liabilities and reserves.

Approved March 20, 1996.

CHAPTER 387
(S.B. No. 1580)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 1997; AND AUTHORIZING AN INCREASE IN 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 Law Enforcement the following amounts, to be expended for the Police Services Program according to the designated standard classifications from the listed funds for the period July 1, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund		$ 15,000		$ 15,000
Miscellaneous Revenue Fund	$41,500	237,100	$154,500	433,100
TOTAL	$41,500	$252,100	$154,500	$448,100

SECTION 2. In addition to the full-time equivalent positions authorized in Section 2, Senate Bill No. 1572, Second Regular Session, Fifty-third Idaho Legislature, the Department of Law Enforcement is authorized one (1) additional full-time equivalent position and no more than four hundred eighty-seven and eight-tenths (487.8) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 1996.

CHAPTER 388
(S.B. No. 1463)

AN ACT

RELATING TO CHILD ABUSE; AMENDING CHAPTER 16, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1609A, IDAHO CODE, TO PROVIDE FOR

THE ESTABLISHMENT OF A MULTIDISCIPLINARY TEAM OR TEAMS WITHIN A COUNTY FOR INVESTIGATION OF CHILD ABUSE AND NEGLECT REFERRALS WITHIN THE COUNTY, TO PROVIDE FOR A WRITTEN PROTOCOL FOR INVESTIGATION OF CHILD ABUSE CASES, TO PROVIDE FOR TRAINING, TO PROVIDE POLICIES AND PROCEDURES AND TO PROVIDE FOR A JOINT EXERCISE OF POWERS AGREEMENT; AMENDING CHAPTER 16, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1609B, IDAHO CODE, TO PROVIDE FOR AUDIO OR VIDEO TAPING OF ALL INVESTIGATIVE OR RISK ASSESSMENT INTERVIEW OF ALLEGED VICTIMS OF CHILD ABUSE AND TO PROVIDE THE EFFECT OF THE ABSENCE OF AUDIO OR VIDEO TAPING.

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 16-1609A, Idaho Code, and to read as follows:

16-1609A. INVESTIGATION BY MULTIDISCIPLINARY TEAMS. (1) By January 1, 1997, the prosecuting attorney in each county shall be responsible for the development of an interagency multidisciplinary team or teams for investigation of child abuse and neglect referrals within each county. The teams shall consist of, but not be limited to, law enforcement personnel, department of health and welfare child protection risk assessment staff, a representative of the prosecuting attorney's office, and any other person deemed to be necessary due to their special training in child abuse investigation. Other persons may participate in investigation of particular cases at the invitation of the team and as determined necessary, such as medical personnel, school officials, mental health workers, personnel from domestic violence programs or the guardian ad litem program.

(2) The teams shall develop a written protocol for investigation of child abuse cases and for interviewing alleged victims of such abuse or neglect. Each team shall develop written agreements signed by member agencies, specifying the role of each agency, procedures to be followed to assess risks to the child and criteria and procedures to be followed to ensure the child victim's safety including removal of the alleged offender.

(3) Each team member shall be trained in risk assessment, dynamics of child abuse and interviewing and investigatory techniques.

(4) Each team shall classify, assess and review all cases referred to either the department or to law enforcement entities for investigation of child abuse or neglect.

(5) Each multidisciplinary team shall develop policies that provide for an independent review of investigation procedures utilized in cases upon completion of any court actions on those cases. The procedures shall include independent citizen input. Nonoffending parents of child abuse victims shall be notified of the review procedure.

(6) Prosecuting attorneys of the various counties may determine that multidisciplinary teams may be most effectively established through the use of joint exercise of powers agreements among more than one (1) county and such agreements are hereby authorized.

SECTION 2. 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 16-1609B, Idaho Code, and to read as follows:

16-1609B. INVESTIGATIVE INTERVIEWS OF ALLEGED CHILD ABUSE VICTIMS. Unless otherwise demonstrated by good cause, all investigative or risk assessment interviews of alleged victims of child abuse will be documented by audio or video taping whether conducted by personnel of law enforcement entities or the department of health and welfare. The absence of such audio or video taping shall not limit the admissibility of such evidence in any related court proceeding.

Approved March 20, 1996.

CHAPTER 389
(S.B. No. 1574)

AN ACT
APPROPRIATING MONEYS FOR THE SPECIAL PROGRAMS FOR FISCAL YEAR 1997; 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 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, 1996, through June 30, 1997:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. FOREST UTILIZATION RESEARCH PROGRAM:					
FROM:					
General Fund	$ 431,200	$ 43,200			$ 474,400
B. IDAHO GEOLOGICAL SURVEY PROGRAM:					
FROM:					
General Fund	$ 599,400	$ 42,700	$5,200		$ 647,300
C. SCHOLARSHIPS AND GRANTS PROGRAM:					
FROM:					
General Fund				$2,082,600	$2,082,600
Scholarship Fund		$ 800		9,800	10,600
Federal Fund				251,000	251,000
TOTAL		$ 800		$2,343,400	$2,344,200
D. IDAHO MUSEUM OF NATURAL HISTORY:					
FROM:					
General Fund	$ 423,800	$ 28,600			$ 452,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
E. IDAHO SMALL BUSINESS DEVELOPMENT CENTERS:					
FROM:					
General Fund				$ 246,700	$ 246,700
F. IDAHO COUNCIL ON ECONOMIC EDUCATION:					
FROM:					
General Fund				$ 53,900	$ 53,900
GRAND TOTAL	$1,454,400	$115,300	$5,200	$2,644,000	$4,218,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than twenty-five and eighty one hundredths (25.80) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, 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 20, 1996.

CHAPTER 390
(S.B. No. 1565)

AN ACT

APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 1997; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Lieutenant Governor the following amounts, to be expended according to designated standard classifications from the listed fund for the period July 1, 1996, through June 30, 1997:

FOR:	
Personnel Costs	$85,400
Operating Expenditures	11,600
TOTAL	$97,000
FROM:	
General Fund	$97,000

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

67-3516, Idaho Code.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Office of the Lieutenant Governor is authorized no more than two (2) full-time equivalent positions at any point during the period July 1, 1996, through June 30, 1997, 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, 1996.

CHAPTER 391
(S.B. No. 1534)

AN ACT

RELATING TO ADMINISTRATIVE RULES; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 1997; CONTINUING RULES APPROVED, MODIFIED, AMENDED OR EXTENDED BY ADOPTION OF A CONCURRENT RESOLUTION OF THE SECOND REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE IN FULL FORCE AND EFFECT UNTIL JULY 1, 1997 OR UNTIL SUCH TIME AS THEY SHALL EXPIRE; PROVIDING THAT RULES REJECTED BY CONCURRENT RESOLUTION SHALL BE NULL, VOID AND OF NO FORCE AND EFFECT; AUTHORIZING AGENCIES TO AMEND OR REPEAL CERTAIN RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURE ACT AND DECLARING THE EFFECT OF THIS ACT UPON ADMINISTRATIVE RULES; AND PROVIDING SEVERABILITY.

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

SECTION 1. Except as provided in Sections 2, 3 and 4 of this act, every rule, as that term is defined in Section 67-5201, Idaho Code, that would expire on July 1, 1996, 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, 1997, 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, amended or extended by the adoption of a Concurrent Resolution by both the Senate and House of Representatives in the Second Regular Session of the Fifty-third Idaho Legislature shall continue in full force and effect in such approved, modified, amended or extended language until July 1, 1997, at which time they shall expire as provided in Section 67-5292, Idaho Code, or until such earlier time as provided in the rule or as otherwise provided by statute.

SECTION 3. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been rejected by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the Second Regular Session of the Fifty-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 or repealing rules which have been continued in full force and effect until July 1, 1997, pursuant to Sections 1 and 2 of this act, according to the procedures contained in Chapter 52, Title 67, Idaho Code, and subject to submission to the Legislature for approval. Nothing contained in this act shall endow any administrative rule continued in full force and effect under this act with any more legal stature than that of an administrative rule. Nothing contained in this act shall be deemed to be a legislative approval of any rule whose force and effect has been extended by this act, and nothing contained herein shall constitute a legislative finding that any of the rules whose force and effect have been extended hereunder are consistent with the legislative intent of the statute(s) pursuant to which they were promulgated.

SECTION 5. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 20, 1996.

CHAPTER 392
(S.B. No. 1520, As Amended in the House)

AN ACT

RELATING TO CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO PROVIDE THAT A PERSON WHO HOLDS A VALID PERMIT IN ANOTHER STATE DOES NOT REQUIRE AN ADDITIONAL LICENSE TO CARRY A CONCEALED WEAPON IN THIS STATE, TO REQUIRE HAVING THE PERMIT IN THE LICENSEE'S PHYSICAL POSSESSION AND TO MAKE TECHNICAL CORRECTIONS.

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

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

18-3302. ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county shall, within ninety (90) days after the filing of an application by any person who 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 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, 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 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). 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 after the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff shall submit the 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, 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;

(g) Any person who has a valid permit from a state or local law enforcement agency or court authorizing him to carry a concealed weapon. A permit issued in another state will only be considered valid if the permit is in the licensee's physical possession.

(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, 1995, 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.

Approved March 20, 1996.

CHAPTER 393
(S.B. No. 1420)

AN ACT

RELATING TO MISCELLANEOUS PROVISIONS OF THE HIGHWAY AND BRIDGE LAW; REPEALING SECTION 40-2305, IDAHO CODE, ALLOWING OWNERS OR OCCUPANTS OF LANDS ADJOINING A HIGHWAY TO PLANT TREES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 40-2305, 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, 1996.

CHAPTER 394
(S.B. No. 1482, As Amended, As Amended in the House)

AN ACT

RELATING TO WILD ANIMALS AND BIRDS DAMAGING PROPERTY; AMENDING SECTION 36-1107, IDAHO CODE, TO RECOGNIZE WATER RIGHTS AS PROPERTY AND TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF FISH AND GAME TO REQUEST AN INVESTIGATION BY THE DEPARTMENT OF WATER RESOURCES, TO PROVIDE FOR A RECOMMENDATION FROM A LOCAL WATER MASTER, AND TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF FISH AND GAME TO ENTER UPON PUBLIC AND PRIVATE PROPERTY AS NECESSARY TO CONTROL, TRAP OR REMOVE ANY FURBEARING ANIMALS OR FOR THE REMOVAL, MODIFICATION OR DESTRUCTION OF ANY DAM, HOUSE, STRUCTURE OR OBSTRUCTION ERECTED BY ANY FURBEARING ANIMALS OR TO REQUIRE THE LANDOWNER TO DO SO.

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

SECTION 1. That Section 36-1107, Idaho Code, be, and the same is hereby amended to read as follows:

36-1107. WILD ANIMALS AND BIRDS DAMAGING PROPERTY. Other provisions of this title notwithstanding, any person may control, trap, and/or remove any wild animals or birds or may destroy the houses, dams, or other structures of furbearing animals for the purpose of protecting property from the depredations thereof as hereinafter provided.

The director may delegate any of the authority conferred by this section to any other employee of the department.

(a) Director to Authorize Removal of Wildlife Causing Damage. Except for antelope, elk, deer or moose when any other wildlife, protected by this title, is doing damage to or is destroying any property, including water rights, or is likely to do so, the owner or lessee thereof may make complaint and report the facts to the director or his designee who shall investigate the conditions complained of. In the case of water rights, the director shall request an investigation by the director of the department of water resources of the conditions complained of. The director of the department of water resources shall request a recommendation from the local water master, if any, and upon such examination, shall certify to the director of the department of fish and game whether said wildlife, or houses, dams or other structures erected by said wildlife is injuring or otherwise adversely impacting water rights. If it appears that the complaint is well-founded and the property of such complainant is being or is likely to be damaged or destroyed by any such wildlife protected under this title, the director may:

1. Send a representative onto the premises to control, trap, and/or remove such protected wildlife as will stop the damage to said property. Any animals or birds so taken shall remain the property of the state and shall be turned over to the director.

2. Grant properly safeguarded permission to the complainant to control, trap and/or remove such protected wildlife or to destroy any houses, dams, or other structures erected by said animals or

birds. Any protected wildlife so taken shall remain the property of the state and shall be turned over to the director.

3. Whenever deemed to be in the public interest, authorize or cause the removal, modification or destruction of any dam, house, structure or obstruction erected by any furbearing animals~~,--provided--that~~. The director shall have authority to enter upon all lands, both public and private, as necessary, to control, trap or remove such animals, or to so remove, modify or destroy such dam, house, structure or obstruction that is injuring or otherwise adversely impacting water rights, or to require the landowner to do so. The director shall make a reasonable effort to contact any private landowner to schedule a date and approximate time for the removal, modification or destruction. N~~n~~o liability whatever shall accrue to the department or the director by reason of any direct or indirect damage arising from such entry upon land, destruction ~~or~~, removal or modification.

4. Issue a permit to any bona fide owner or lessee of property which is being actually and materially damaged by furbearing animals, to trap or kill or to have trapped or killed such animals on his own or leased premises. Such permit may be issued without cost to a landholder applicant and shall designate therein the number of furbearing animals that may be trapped or killed, the name of the person who the landowner has designated to take such furbearers and the valid trapping license number of the taker. Furbearers so taken shall be the property of the taker. Beaver so taken shall be handled in the manner provided in section 36-1104, Idaho Code. The term "premises" shall be construed to include any irrigation ditch or right-of-way appurtenant to the land for which said permit is issued.

(b) Control of Depredation of Black Bear, Mountain Lion, and Predators. Black bear, mountain lion, and predators may be disposed of by livestock owners or their employees when same are molesting livestock and it shall not be necessary to obtain any permit from the department. Mountain lion so taken shall be reported to the director. Livestock owners may take steps they deem necessary to protect their livestock.

(c) Taking of Muskrats in Irrigation Systems Authorized. Muskrats may be taken at any time in or along the banks of irrigation ditches, canals, reservoirs or dams, by the owners, their employees, or those in charge of said irrigation ditches or canals.

Approved March 20, 1996.

CHAPTER 395
(S.B. No. 1453)

AN ACT

RELATING TO LIMITED LIABILITY COMPANIES; AMENDING SECTION 53-604, IDAHO CODE, TO PRECLUDE ANY ACTION IN COURT BY A LIMITED LIABILITY COMPANY IN THE ABSENCE OF A DULY APPOINTED REGISTERED AGENT; AMENDING SECTION 53-613, IDAHO CODE, TO REQUIRE THAT THE ANNUAL

REPORT OF A DOMESTIC OR FOREIGN LIMITED LIABILITY COMPANY MUST BE ACCOMPANIED BY A STATEMENT OF ACCEPTANCE BY THE NEW AGENT IF THE ANNUAL REPORT INDICATES A CHANGE IN THE COMPANY'S REGISTERED AGENT; AND AMENDING SECTION 53-614, IDAHO CODE, TO PROVIDE FOR CANCELLATION OF ARTICLES OF ORGANIZATION OR REGISTRATION FOR FAILURE TO FILE AN ANNUAL REPORT.

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

SECTION 1. That Section 53-604, Idaho Code, be, and the same is hereby amended to read as follows:

53-604. REGISTERED OFFICE AND REGISTERED AGENT. (1) A limited liability company shall continuously maintain in this state:

(a) A registered office that may, but need not, be the same as its place of business; and

(b) A registered agent for service of process on the limited liability company that is an individual resident of this state, a limited liability company, a foreign limited liability company authorized to transact business in this state or a corporation formed under the laws of or authorized to transact business in this state.

(2) Unless the registered agent signed the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served is not effective until the agent delivers a statement in writing to the secretary of state accepting the appointment.

(3) A limited liability company may change its registered office or registered agent, or both, by indicating the change on the annual report prescribed in section 53-613, Idaho Code, or by delivering to the secretary of state a statement setting forth:

(a) The name of the limited liability company;

(b) The address of its current registered office;

(c) If the address of its registered office is to be changed, the address to which the registered office is to be changed;

(d) The name and address of its current registered agent;

(e) If its registered agent or the registered agent's address is to be changed, the name and address of its successor registered agent or the registered agent's new address.

(4) The change of address of the registered office or registered agent is effective on delivery of the statement to the secretary of state. The appointment of a new registered agent is effective on delivery of the statement to the secretary of state and on receipt by the secretary of state of evidence that the new registered agent has accepted appointment pursuant to subsection (2) of this section.

(5) A registered agent of a limited liability company may resign as registered agent by delivering a written notice of resignation, executed in duplicate, to the secretary of state. The secretary of state shall mail a copy of the notice to the limited liability company at its registered office. The appointment of the registered agent terminates thirty (30) days after receipt of the notice by the secretary of state or on the appointment of a successor registered agent, whichever occurs first. <u>If a limited liability company has not appointed a</u>

new registered agent by the thirtieth day after receipt of the notice by the secretary of state, it may not thereafter maintain any action, suit or proceeding in any court of this state until it has appointed a registered agent as provided in this section.

(6) If a registered agent changes its address to another place in this state, it may change the address by delivering a statement to the secretary of state as required in subsection (3) of this section, except that the statement need be signed only by the registered agent. The statement shall recite that a copy of it has been mailed to the limited liability company.

SECTION 2. That Section 53-613, Idaho Code, be, and the same is hereby amended to read as follows:

53-613. ANNUAL REPORT OF DOMESTIC AND FOREIGN LIMITED LIABILITY COMPANIES. (1) Each domestic limited liability company, and each foreign limited liability company authorized to do business in this state, shall file an annual report setting forth:

(a) The name of the limited liability company and the state or country under the laws of which it is organized;

(b) The address of the registered office of the limited liability company in this state, and the name of its registered agent in this state at such address, and the address of its principal office;

(c) If the management of the limited liability company is vested in its members, the name and address of one (1) or more of the current members of the limited liability company;

(d) If the management of the limited liability company is vested in a manager or managers, the name and address of one (1) or more of the current managers of the limited liability company.

(2) Such annual report shall be made on forms prescribed and furnished by the secretary of state, and the information therein contained shall be given as of the date of the execution of the report. It shall be executed by the limited liability company by a member if management is vested in the members, or by a manager if management is vested in the managers. If the limited liability company is in the hands of a receiver or trustee, it shall be executed on behalf of the limited liability company by such receiver or trustee. If the annual report indicates a change of registered agent or the appointment of a new registered agent, it must be accompanied by the statement described in section 53-604(2), Idaho Code.

(3) Such annual report of a domestic or foreign limited liability company shall be delivered to the secretary of state between the 1st day of July and the 30th day of November of each year, except that the first annual report of a domestic or foreign limited liability company shall be filed between the 1st day of July and the 30th day of November of the state fiscal year (July 1--June 30) next succeeding the state fiscal year in which its articles of organization were filed with the secretary of state, or when the certificate of registration was issued by the secretary of state, as the case may be. The report must be received in the office of the secretary of state not later than the close of business on the 30th day of November, or if that date falls on a weekend, on the last business day prior thereto. If

the secretary of state finds that such report conforms to the requirements of this chapter, he shall file the same. If he finds that it does not so conform, he shall promptly return the same to the limited liability company for any necessary corrections.

SECTION 3. That Section 53-614, Idaho Code, be, and the same is hereby amended to read as follows:

53-614. INVOLUNTARY CANCELLATION OF ARTICLES OF ORGANIZATION OR REGISTRATION AS A FOREIGN LIMITED LIABILITY COMPANY. (1) ~~A~~ If a domestic limited liability company or a foreign limited liability company registered in this state ~~is delinquent if it~~ does not file an annual report within the time prescribed under section 53-613, Idaho Code,~~.~~

~~(2) If a domestic limited liability company or a foreign limited liability company registered in this state remains delinquent for more than thirty (30) days after the date the annual report is due in accordance with the provisions of section 53-613, Idaho Code, the limited liability company's~~ its articles or registration may be involuntarily cancelled by the secretary of state.

(~~3~~2) The name of the cancelled limited liability company is not available for one (1) year from the date of cancellation for use by any other person transacting business in this state.

(~~4~~3) Any limited liability company whose articles of organization or registration have been cancelled under the provisions of this section may be reinstated within ten (10) years following cancellation upon application and payment of all penalties and reinstatement fees as determined by the secretary of state in accordance with the provisions of section 53-665, Idaho Code.

(~~5~~4) A member or manager of a limited liability company does not become personally liable solely by reason of the limited liability company having had its limited liability articles or registration cancelled. Additionally, section 63-3006A, Idaho Code, remains applicable to the limited liability company even if the limited liability company's articles or registration have been cancelled.

(~~6~~5) A limited liability company that has had its articles of organization or registration cancelled may not maintain any action, suit or proceeding in any court of this state until it has reinstated its certificate or registration following cancellation.

Approved March 20, 1996.

CHAPTER 396
(S.B. No. 1553)

AN ACT

RELATING TO MOTOR VEHICLE LICENSE PLATES; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 49-443, IDAHO CODE, TO PROVIDE FOR READABILITY OF PLATES AT A DISTANCE OF SEVENTY-FIVE FEET, AND TO PROVIDE A PLATE RESERVATION PROGRAM AS DETERMINED BY THE DEPARTMENT WITH IMPLEMENTATION BY COUNTIES AT THE OPTION OF THE COUNTY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature that Idaho motor vehicle license plates shall meet national readability standards by displaying full-size county designators and numerals in the identification portion of the plates.

SECTION 2. That Section 49-443, Idaho Code, be, and the same is hereby amended to read as follows:

49-443. LICENSE PLATES TO BE FURNISHED BY DEPARTMENT -- FORM AND CONTENTS. (1) The assessor shall furnish to every owner whose vehicle is registered by that office, pursuant to sections 49-402 and 49-402A, Idaho Code, one (1) license plate for a motorcycle, trailer, truck-tractor, or semitrailer and two (2) license plates for every other motor vehicle.

Commencing January 1, 1992, the color and design of the plates shall be comparable to the color and design of the statehood centennial issue of license plates with blue numerals and letters on a multicolored red, white and blue background. Each license plate must bear upon its face the inscriptions "Famous Potatoes" and "Scenic Idaho."

Every license plate shall have displayed upon it the registration number assigned to the vehicle and its owner and the name "Idaho" which may be abbreviated. The plates issued under the provisions of section 49-402(1), Idaho Code, and the required letters and numerals, including an identification of the county in which the motor vehicle to which the plates will be affixed is registered, shall be of sufficient size to be plainly readable from a distance of ~~one-hundred~~ seventy-five ~~(100)~~75) feet during daylight, and each license plate and registration sticker shall be treated with a fully reflectorized material according to specifications prescribed by the board.

(2) License plates shall be valid for a period of seven (7) years beginning with the date of issuance of new plates. At the end of the sixth year, the registered owner shall receive notice of the date upon which the plates will expire. ~~At--that--time-the-owner-may,-if-he chooses,-reserve-his-current-plate-number-for-the-succeeding-seven-(7) year-period-and-shall-receive-that-number-on-his-new-license-plates-at the-beginning-of-the-next-seven-(7)-year-cycle.~~ The department shall implement a plate-number reservation program beginning prior to the 1999 plate issue and following once every seven (7) years thereafter, for a limited plate-number sequence in each county which chooses to offer a reservation program. Requests for license plate number reservations shall be submitted to the county during the open reservation period established by the department. The department may charge a minimal fee as determined by the board to recover costs to the department for reservation of license plate numbers.

(3) If a license plate number has expired as provided in subsection (2) of this section and the number was not reserved, or if the vehicle registration is not renewed within sixty (60) days of its expiration, the plate number shall be available for use by another registrant. To obtain a specific number in the recycled license plate number file, the owner of a registered vehicle shall pay a one (1)

time fee as determined by rule of the board.

The provisions of this subsection shall apply only to vehicles registered under the provisions of section 49-402(1), Idaho Code, and section 49-434(1), Idaho Code, as it applies to noncommercial vehicles.

(4) License plates issued for vehicles required to be registered in accordance with the provisions of sections 49-402 and 49-402A, Idaho Code, shall be issued color coded registration validation stickers showing the year of registration. Each registration validation sticker shall bear a number from 1 through 12, which number shall correspond to the month of the calendar year in which the registration of the vehicle expires and shall be affixed to the lower right-hand corner of the plates within the outlined rectangular area.

(5) License plates for utility trailers registered under the provisions of section 49-402A, Idaho Code, which are issued for five (5) or ten (10) years and license plates for trailers, rental utility trailers and semitrailers registered under the provisions of section 49-434, Idaho Code, which are issued for five (5) years shall use the design in effect on the date of manufacture. If a design change occurs, plates from the effective date of the design change shall be manufactured using the new design. Unexpired plates need not be reissued to conform to a design change.

(6) For license plates which are lost, stolen, mutilated, or illegible, the owner shall apply for a duplicate or substitute. The assessor shall also furnish for each registration, and to validate the license plate, a pressure-sensitive, serially-numbered registration sticker. License plates issued for state, county and city motor vehicles shall be permanent and remain on the vehicle for which issued from year to year, and need no renewal or validation sticker.

(7) Whenever a vehicle is completely destroyed by fire or accident and the operator submits satisfactory proof of that destruction to the department or appropriate assessor's office, the registration use increment and fees shall be transferred to the replacement vehicle for a service transfer fee of five dollars ($5.00), which fee shall be retained by the registering authority. None of the original fees shall be subject to refund.

(8) The department shall furnish to every owner whose vehicle is registered under sections 49-434 and 49-435, Idaho Code, a pressure-sensitive, serially-numbered registration sticker to validate the license plate.

(9) The board shall have authority to require the return to the department of all license plates and registration stickers upon termination of the lawful use of them by the owner.

(10) The board may promulgate such rules as are necessary to implement the provisions of this section.

SECTION 3. This act shall be in full force and effect on and after January 1, 1997.

Approved March 20, 1996.

CHAPTER 397
(S.B. No. 1554)

AN ACT

RELATING TO LICENSE PLATE FEES; AMENDING SECTION 49-450, IDAHO CODE, TO PROVIDE FOR RECOVERY OF PLATE MANUFACTURING COSTS PRIOR TO DISTRIBUTING REMAINING FUNDS TO THE HIGHWAY DISTRIBUTION ACCOUNT AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 49-450, Idaho Code, be, and the same is hereby amended to read as follows:

49-450. ADDITIONAL FEE FOR EACH PLATE ISSUED. In addition to the vehicle registration fee provided by law, wWhenever any plate is issued for vehicle registration, there shall be charged a fee of three dollars ($3.00) per plate, which shall be ~~in addition to the vehicle registration fee provided by law, from which one dollar and seventy cents ($1.70) shall deposited in the highway distribution account, and the remainder shall be~~ deposited into the plate manufacturing account created in section 49-450A, Idaho Code. The actual cost of producing and manufacturing license plates and the f~~F~~ifty cents ($.50) ~~of the amount deposited into the plate manufacturing account shall be used to pay~~ per plate fee designated to the Idaho heritage trust for the use of the copyrighted design provided for in section 49-443(10), Idaho Code, shall be paid from the plate manufacturing account. The remainder of the plate fee shall be deposited in the highway distribution account as established in section 40-701, Idaho Code, for apportionment as designated in that section. ~~Such f~~Funds designated to the Idaho heritage trust shall be matched with equal funds from other sources ~~and used to fund~~ for funding projects designed to preserve Idaho's historic resources.

Approved March 20, 1996.

CHAPTER 398
(S.B. No. 1465)

AN ACT

RELATING TO PROSECUTING ATTORNEYS; AMENDING SECTION 31-3113, IDAHO CODE, TO PROVIDE FOR A FULL-TIME PROSECUTING ATTORNEY IN GEM COUNTY.

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

SECTION 1. That Section 31-3113, Idaho Code, be, and the same is hereby amended to read as follows:

31-3113. CONTRACTED DUTIES OF PROSECUTING ATTORNEYS WITH CITIES.

The prosecuting attorneys in the following counties are required to devote full time to the discharge of their duties: Bannock, Bonner, Bonneville, Canyon, Elmore, Gem, Kootenai, Latah, Payette and Twin Falls. With the unanimous approval of the board of county commissioners, and with the consent of the prosecuting attorney, the prosecuting attorney may contract with any city within the county to prosecute nonconflicting misdemeanors in those counties where the prosecuting attorneys are required to devote full time to the discharge of their duties.

Approved March 20, 1996.

CHAPTER 399
(S.B. No. 1499, As Amended, As Amended in the House)

AN ACT

RELATING TO DELIVERY OF WATER TO SUBDIVISIONS; AMENDING SECTION 31-3805, IDAHO CODE, TO REVISE PROCEDURES FOR ACCEPTANCE OR APPROVAL OF A SUBDIVISION WHEN THE SUBDIVISION IS LOCATED WITHIN THE BOUNDARIES OF AN IRRIGATION ENTITY; AMENDING SECTION 31-3806, IDAHO CODE, TO PROVIDE REFERENCE TO IRRIGATION ENTITY, TO PROVIDE A TECHNICAL CORRECTION AND TO PROVIDE A CORRECT CITATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-3805, Idaho Code, be, and the same is hereby amended to read as follows:

31-3805. DELIVERY OF WATER. (1) When either a subdivision within the meaning of chapter 13, title 50, Idaho Code, or a subdivision subject to a more restrictive county or city zoning ordinance is proposed within the state of Idaho, and all or any part of said subdivision would be located within the boundaries of an existing irrigation district or other canal company, ditch association, or like irrigation water delivery entity, hereinafter called "irrigation entity" for the purposes of this section, no subdivision plat, amendment to a subdivision plat or record of survey will be accepted, approved, and recorded unless:

(a) The water rights appurtenant and the assessment obligation of the lands in said subdivision which are within the irrigation entity have been transferred from said lands or excluded from an irrigation ~~district~~ entity by the owner thereof; or by the person, firm or corporation filing the subdivision plat, amendment to a subdivision plat or record of survey; or

(b) The owner or person, firm or corporation filing the subdivision plat, amendment to a subdivision plat or record of survey has provided for underground tile or other like satisfactory underground conduit ~~to permit the delivery of~~ for lots of one (1) acre or less, or a suitable system for lots of more than one (1) acre which will deliver water to those landowners within the subdivi-

sion who are also within the irrigation entity, with the following appropriate approvals:

(i) For proposed subdivisions within the incorporated limits of a city, the irrigation system must be approved by the city zoning authority ~~and~~ or the city council, as provided by city ordinance, with the advice of the irrigation entity charged with the delivery of water to said lands.

(ii) For proposed subdivisions located outside incorporated cities but within a negotiated area of city impact pursuant to chapter 65, title 67, Idaho Code, or within one (1) mile outside the incorporated limits of any city, both city and county zoning authorities and city council and county commissions must approve such irrigation system in accordance with section 50-1306, Idaho Code. In addition, the irrigation entity charged with the delivery of water to said lands must be advised regarding the irrigation system.

(iii) For proposed subdivisions located outside an area of city impact in counties with a zoning ordinance, the delivery system must be approved by the appropriate county zoning authority, and the county commission with the advice of the irrigation entity charged with the delivery of water to said lands.

(iv) For proposed subdivisions located outside an area of city impact in counties without a zoning ordinance, such irrigation system must be approved by the board of county commissioners with the advice of the irrigation entity charged with the delivery of water to said lands.

(2) (a) In the event that the provisions of either subsections (1)(a) or (1)(b) of this section have not been complied with, the assessments of the irrigation entity for operation, maintenance, construction, and other valid charges permitted by statute shall in no way be affected. ~~However, a~~Any person, firm or corporation or any other person offering such lots in such subdivision for sale, or selling such lot shall, prior to the sale, advise the purchaser in writing as follows:

(i) that suitable water deliveries have not been provided; and

(ii) that the purchaser of the lot must remain subject to all assessments levied by the irrigation entity; and

(iii) that the individual purchaser shall be responsible to pay such legal assessments; and

(iv) that the assessments are a lien on the land within the irrigation entity; and

(v) that the purchaser may at a future date petition the appropriate irrigation entity for exclusion from the irrigation district.

(b) A disclosure statement executed by the purchasers and duly acknowledged, containing the representations required in this subsection of this section, shall be obtained by the seller at the time of receipt of the earnest money from the purchaser, and affixed to the proposed sales contract and a copy thereof shall be forwarded to the appropriate irrigation entity.

SECTION 2. That Section 31-3806, Idaho Code, be, and the same is hereby amended to read as follows:

31-3806. CIVIL ACTION TO ENFORCE. (1) If the owner of the property of the person, firm or corporation filing the subdivision plat, amendment to a subdivision plat or record of survey fails to comply with either subsection (1)~~(a) or (1)(b)~~ or (2) of section 31-3805, Idaho Code, prior to sale of the lots in the subdivision to purchasers, the owner of the property, or the person, firm or corporation filing the subdivision plat, amendment to a subdivision plat or record of survey shall be liable to any purchaser for the costs of the lot's exclusion plus all assessments due and owing ~~of~~ or the actual cost of installation of an irrigation delivery system not to exceed one thousand five hundred dollars ($1,500) per lot. The purchaser shall have a right to enforce this obligation in a civil action and the purchaser shall have the right to elect exclusion or installation of the system in such action.

(2) Any person, firm or corporation who shall omit, neglect or refuse to provide the purchaser or the irrigation ~~district~~ entity within whose boundaries the land is located, a copy of the disclosure statement required by subsections (2)~~(a) and (2)(b)~~ of section 31-3805, Idaho Code:

(a) Shall be liable to the purchaser as provided in subsection (1) of this section.

(b) Shall be liable to the irrigation ~~district~~ entity for its reasonable expense, including employee time, of locating the purchaser and providing the information required in the form and for advising affected purchasers of the lack of a water delivery system and for any assessments on the property that are past due at the time of discovery of the violation. The irrigation ~~district~~ entity affected shall have a right to claim such expenses in a civil action.

(3) In any civil action filed under subsections (1) or (2) of this section, the prevailing party shall be awarded its reasonable costs and attorney's fees. ~~and t~~The purchaser and irrigation ~~district~~ entity shall have two (2) years from the date of discovery of the violation to initiate any legal action.

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

Approved March 20, 1996.

CHAPTER 400
(S.B. No. 1366, As Amended in the House)

AN ACT

RELATING TO CRIMES AND PUNISHMENTS; AMENDING SECTION 18-4511, IDAHO CODE, TO PROVIDE THAT A FAILURE OF CERTAIN PERSONS TO COMPLY WITH DOCUMENTATION REQUIREMENTS OF THIS SECTION AFTER LAWFUL REQUEST OR

TO COOPERATE WITH A LAW ENFORCEMENT INVESTIGATION LAWFULLY CONDUCTED PURSUANT TO THIS SECTION IS A MISDEMEANOR.

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

SECTION 1. That Section 18-4511, Idaho Code, be, and the same is hereby amended to read as follows:

18-4511. SCHOOL DUTIES -- RECORDS OF MISSING CHILD -- IDENTIFICATION UPON ENROLLMENT -- TRANSFER OF STUDENT RECORDS. 1. Upon notification by the department of law enforcement of a missing or runaway child report, the school in which the child is currently enrolled shall flag the record of that child in such a manner that whenever a copy of or information regarding the record is requested, the school shall be alerted to the fact that the record is that of a missing or runaway child. The school shall immediately report to the local law enforcement agency any request concerning flagged records or knowledge as to the whereabouts of the missing or runaway child. Upon notification by the department of law enforcement of the return of the missing or runaway child, the school shall remove the flag from the child's record.

2. Upon enrollment of a student for the first time in a public or private elementary or secondary school, the school shall notify in writing the person enrolling the student that within thirty (30) days he must provide either a certified copy of the student's birth certificate or other reliable proof of the student's identity and birthdate, which proof shall be accompanied by an affidavit explaining the inability to produce a copy of the birth certificate. Other reliable proof of the student's identity and birthdate may include a passport, visa or other governmental documentation of the child's identity.

(a) Upon the failure of a person enrolling a student to comply with the provisions of this subsection, the school shall immediately notify the local law enforcement agency of such failure, and shall notify the person enrolling the student, in writing, that he has ten (10) additional days to comply.

(b) The school shall immediately report to the local law enforcement agency any documentation or affidavit received pursuant to this subsection which appears inaccurate or suspicious in form or content.

3. Within fourteen (14) days after enrolling a transfer student, the public or private elementary or secondary school shall request directly from the student's previous school a certified copy of his record. The requesting school shall exercise due diligence in obtaining the copy of the record requested. A student transferring schools within the same school district need not provide proof of identity and birthdate if the student's record already contains such verified information. Any public or private elementary or secondary school which is requested to forward a copy of a transferred student's record to the student's new school shall comply within ten (10) days of receipt of the request, unless the record has been flagged pursuant to subsection 1 of this section, in which case the copy shall not be forwarded and the school shall notify the local law enforcement agency of the request for a flagged record; provided however, that any private

school accredited by the state board of education which has an agreement allowing retention of a student's record when such student's tuition or fees have not been paid may comply with the provisions of this subsection by notifying the student's new school that the transferred student's records are being held for nonpayment of tuition or fees. However, such private school shall be required to notify the local law enforcement agency if the student's record has been flagged pursuant to the provisions of subsection 1 of this section, even if the student's tuition and fees have not been paid.

4. It shall be the duty of the local law enforcement agency to immediately investigate each report received from a school of a failure to comply with the provisions of subsection 2 or subsection 3 of this section.

5. Failure of a parent, or person in custody of a child, or a person enrolling a student, to comply with the documentation requirements of this section after a lawful request by a law enforcement agency, or to cooperate with a law enforcement investigation lawfully conducted pursuant to this section, shall constitute a misdemeanor.

Approved March 20, 1996.

CHAPTER 401
(S.B. No. 1391, As Amended in the House)

AN ACT

RELATING TO THREATS AGAINST CERTAIN STATE OFFICIALS; AMENDING SECTION 18-1353A, IDAHO CODE, TO CLARIFY THAT THE SECTION APPLIES TO ANY JUSTICE, JUDGE OR MAGISTRATE OF THE JUDICIAL BRANCH, AND TO PROVIDE THAT MAKING THREATS WHILE EXHIBITING A DEADLY WEAPON SHALL BE A FELONY.

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

SECTION 1. That Section 18-1353A, Idaho Code, be, and the same is hereby amended to read as follows:

18-1353A. THREATS AGAINST STATE ~~ELECTED~~ OFFICIALS OF THE EXECUTIVE, LEGISLATIVE OR JUDICIAL BRANCH. Whoever knowingly and willfully deposits for conveyance in the mail or for a delivery from any post office or by any letter carrier, any letter, paper, writing, print, missive, or document containing any threat to take the life of or to inflict bodily harm upon any state elected official of the executive~~,~~ or legislative branch, or any justice, judge or magistrate of the judicial branch, or person appointed to fill the vacancy of a state elected official of the executive~~,~~ or legislative ~~or judicial~~ branch of the state of Idaho, or knowingly and willfully otherwise makes any such threat against a state elected official of the executive~~,~~ or legislative branch, or any justice, judge or magistrate of the judicial branch, or person appointed to fill the vacancy of a state elected official of the executive~~,~~ or legislative ~~or judicial~~ branch of the state of Idaho is guilty of a misdemeanor and upon conviction thereof

shall be fined not to exceed one thousand dollars ($1,000) and shall be sentenced to not to exceed one (1) year in the county jail. If such threat is made while the defendant exhibits a firearm or other dangerous or deadly weapon, the defendant shall be guilty of a felony. Upon a second or subsequent conviction of an offense under this section, the defendant shall be guilty of a felony and shall be sentenced to a term of not to exceed five (5) years in the state penitentiary.

Approved March 20, 1996.

CHAPTER 402
(S.B. No. 1378, As Amended)

AN ACT

RELATING TO PROHIBITED ACTS FOR SERVICE PROVIDERS UNDER THE STATE'S INSURANCE LAWS; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-348, IDAHO CODE, TO PROVIDE FOR PROHIBITED ACTS BY SERVICE PROVIDERS, TO DEFINE TERMS AND TO PROVIDE PENALTIES.

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

SECTION 1. That Chapter 3, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-348, Idaho Code, and to read as follows:

41-348. PROHIBITED ACTS -- SERVICE PROVIDERS. (1) It is unlawful for a person:

(a) Knowing that the payment is for the referral of a claimant to a service provider, either to accept payment from a service provider or, being a service provider, to pay another; or

(b) To provide or claim or represent to have provided services to a claimant, knowing the claimant was referred in violation of paragraph (a) of this subsection.

(2) It is unlawful for a service provider to engage in a regular practice of waiving, rebating, giving, paying, or offering to waive, rebate, give or pay all or part of a claimant's deductible or claim for casualty, disability insurance, worker's compensation insurance, health insurance or property insurance.

(3) As used in this section:

(a) "Health care services" means a service provided to a claimant for treatment of physical or mental illness or injury arising in whole or substantial part from trauma.

(b) "Service provider" means a person who directly or indirectly provides, advertises, or otherwise claims to provide services.

(c) "Services" means health care services, motor vehicle body or other motor vehicle repair and preparing, processing, presenting or negotiating an insurance claim against an insurance company.

(4) Any person or service provider violating the provisions of this section shall be subject to the monetary civil penalties provided in section 41-327, Idaho Code, as if the person or service provider were an insurer.

Approved March 20, 1996.

CHAPTER 403
(S.B. No. 1419)

AN ACT

RELATING TO RULES OF THE ROAD; AMENDING SECTION 49-640, IDAHO CODE, TO PROVIDE RIGHTS OF WAY FOR VEHICLES APPROACHING OR ENTERING UNMARKED OR UNCONTROLLED INTERSECTIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-640, Idaho Code, be, and the same is hereby amended to read as follows:

49-640. VEHICLES APPROACHING OR ENTERING UNMARKED OR UNCONTROLLED INTERSECTION. (1) When two (2) vehicles approach or enter an unmarked or uncontrolled intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the ~~right-of-way~~ right of way to the vehicle on the right.

(2) The ~~right-of-way~~ right of way rule declared in subsection (1) of this section is modified as follows:

(a) At "T" intersections where one (1) highway ends when it meets a second highway not ending at that point of convergence. When two (2) vehicles approach or enter a "T" intersection from different directions at approximately the same time, the driver of the vehicle on the highway ending at the intersection shall yield the right of way to the other vehicle;

(b) A~~a~~t through highways; and

(c) O~~o~~therwise as stated in this title.

Approved March 20, 1996.

CHAPTER 404
(S.B. No. 1429, As Amended in the House)

AN ACT

RELATING TO REGISTRATION AND PROTECTION OF TRADEMARKS; REPEALING CHAPTER 5, TITLE 48, IDAHO CODE; AMENDING TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 5, TITLE 48, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR REGISTRABILITY OF A MARK, TO PROVIDE FOR AN APPLICATION FOR REGISTRATION OF A MARK WITH THE SECRETARY OF STATE, TO PROVIDE FOR THE FILING OF AN APPLICATION, TO PROVIDE FOR

A CERTIFICATE OF REGISTRATION, TO PROVIDE FOR DURATION AND RENEWAL OF REGISTRATION, TO PROVIDE FOR ASSIGNMENT OF A MARK AND ITS REGISTRATION, CHANGES OF NAME AND OTHER INSTRUMENTS, TO PROVIDE FOR RECORDS TO BE KEPT BY THE SECRETARY OF STATE, TO PROVIDE FOR CANCELLATION OF REGISTRATIONS, TO PROVIDE FOR CLASSIFICATION, TO PROVIDE FOR FRAUDULENT REGISTRATION, TO PROVIDE FOR INFRINGEMENT, TO PROVIDE FOR INJURY TO BUSINESS REPUTATION AND DILUTION, TO PROVIDE REMEDIES, TO PROVIDE FOR A FORUM FOR ACTIONS REGARDING REGISTRATION AND SERVICE ON OUT-OF-STATE REGISTRANTS, TO PROVIDE FOR COMMON LAW RIGHTS, TO PROVIDE FOR FEES, AND TO PROVIDE THE EFFECT OF THE ACT WITH RESPECT TO OTHER PROCEEDINGS AND TO PROVIDE THE INTENT OF THE ACT.

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

SECTION 1. That Chapter 5, Title 48, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 5, Title 48, Idaho Code, and to read as follows:

CHAPTER 5
REGISTRATION AND PROTECTION OF TRADEMARKS

48-501. DEFINITIONS. Whenever used in this chapter:

(1) "Abandoned" shall mean when either of the following occurs:

(a) When the use of the mark has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for two (2) consecutive years shall constitute prima facie evidence of abandonment.

(b) When any course of conduct of the owner, including acts of omission as well as commission, causes the mark to lose its significance as a mark.

(2) "Applicant" shall mean the person filing an application for registration of a mark under this act, and the legal representatives, successors, or assigns of such person.

(3) "Dilution" shall mean the lessening of the capacity of registrant's mark to identify and distinguish goods or services, regardless of the presence or absence of: (a) competition between the parties, or (b) likelihood of confusion, mistake or deception.

(4) "Juristic person" shall mean a firm, partnership, corporation, limited liability company or partnership, union, association, or other organization capable of suing and being sued in a court of law.

(5) "Mark" shall mean any trademark or service mark, entitled to registration under this act whether registered or not.

(6) "Person" shall mean the applicant or other party entitled to a benefit or privilege or rendered liable under the provisions of this act and includes a juristic person as well as a natural person.

(7) "Registrant" shall mean the person to whom the registration of a mark under this act is issued, and the legal representatives, successors or assigns of such person.

(8) "Service mark" shall mean any word, name, symbol, or device

or any combination thereof used by a person to identify and distinguish the services of one (1) person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names used by a person, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor.

(9) "Trademark" shall mean any word, name, symbol, or device or any combination thereof used by a person to identify and distinguish the goods of such person, including a unique product, from those manufactured and sold by others, and to indicate the source of the goods, even if that source is unknown.

(10) "Trade name" shall mean any name used by a person to identify a business or vocation of such person.

(11) "Use" shall mean the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark. For the purposes of this act, a mark shall be deemed to be in use: (a) on goods when it is placed in any manner on the goods or other containers or the displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale, and the goods are sold or transported in commerce in this state; and (b) on services when it is used or displayed in the sale or advertising of services and the services are rendered in this state.

48-502. REGISTRABILITY. (1) In order to be registered, a mark must have some element of distinctiveness, arbitrariness or uniqueness, which may be inherent to the mark or acquired through extended usage and establishment of a reputation.

(2) A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered if it:

(a) Consists of or comprises immoral, deceptive or scandalous matter; or

(b) Consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt or disrepute; or

(c) Consists of or comprises the flag or coat of arms or other insignia of the United States, or of any state or municipality, or of any foreign nation, or any simulation thereof; or

(d) Consists of or comprises the name, signature or portrait identifying a particular living individual, except by the individual's written consent;

(e) Consists of a mark which: (i) when used on or in connection with the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them; or (ii) when used on or in connection with the goods or services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them; or (iii) is primarily merely a surname, provided however, that nothing in this subsection shall prevent the registration of a mark used by the applicant which has become distinctive of the applicant's goods or services. The secretary of state may accept

as evidence that the mark has become distinctive, as used on or in connection with the applicant's goods or services, proof of continuous use thereof as a mark by the applicant in this state for the five (5) years before the date on which the claim of distinctiveness is made; or

(f) Consists of or comprises a mark which so resembles a mark registered in this state or a mark or trade name previously used by another and not abandoned, as to be likely, when used on or in connection with the goods or services of the applicant, to cause confusion or mistake or to deceive.

48-503. APPLICATION FOR REGISTRATION. Subject to the limitations set forth in this act, any person who uses a mark may file in the office of the secretary of state, in a form prescribed by the secretary of state, an application for registration of that mark setting forth, but not limited to, the following information:

(1) The name and business address of the person applying for such registration; and, if a corporation, limited liability company or partnership, the state of domestication, and if a partnership, the names of the general partners, as specified by the secretary of state;

(2) The goods or services on or in connection with which the mark is used and the mode or manner in which the mark is used on or in connection with such goods or services and the class in which such goods or services fall;

(3) The date when the mark was first used anywhere and the date when it was first used in this state by the applicant or a predecessor in interest; and

(4) A statement that the applicant is the owner of the mark, that the mark is in use, and that, to the knowledge of the person verifying the application, no other person has registered, in this state, or has the right to use such mark either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of such other person, to cause confusion, or to cause mistake, or to deceive.

The secretary of state may also require a statement as to whether an application to register the mark, or portions or a composite thereof, has been filed by the applicant or a predecessor in interest in the United States patent and trademark office; and, if so, the applicant shall provide full particulars with respect thereto including the filing date and serial number of each application, the status thereof and, if any application was finally refused registration or has otherwise not resulted in a registration, the reasons therefor.

The application shall be signed by the applicant or by a member of the firm or an officer of the corporation or association applying.

The application shall be accompanied by a drawing or one (1) specimen showing the mark as actually used, complying with such requirements as the secretary of state may specify.

The application shall be accompanied by the application fee payable to the secretary of state.

48-504. FILING OF APPLICATIONS. (1) Upon the filing of an application for registration and payment of the application fee, the secretary of state may cause the application to be examined for conformity

with this act.

(2) The applicant shall provide any additional pertinent information requested by the secretary of state including a description of a design mark and may make, or authorize the secretary of state to make, such amendments to the application as may be reasonably requested by the secretary of state or deemed by the applicant to be advisable to respond to any rejection or objection.

(3) The secretary of state may require the applicant to disclaim an unregisterable component of a mark otherwise registerable, and an applicant may voluntarily disclaim a component of a mark sought to be registered. No disclaimer shall prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or the applicant's or registrant's rights of registration on another application if the disclaimed matter is distinctive of the applicant's or registrant's goods or services.

(4) Amendments may be made by the secretary of state upon the application submitted by the applicant upon the applicant's agreement, or the secretary of state may require a fresh application.

(5) If the applicant is found not to be entitled to registration, the secretary of state shall advise the applicant thereof and of the reasons therefor. The applicant shall have a reasonable period of time specified by the secretary of state in which to reply or to amend the application, in which event the application shall then be reexamined. This procedure may be repeated until: (a) the secretary of state finally refuses registration of the mark; or (b) the applicant fails to reply or amend within the specified period, whereupon the application shall be deemed to have been abandoned.

(6) If the secretary of state finally refuses registration of the mark, the applicant may appeal the denial of such registration to the district court in and for Ada county. The court may compel registration of the mark, but without cost to the secretary of state, on proof that all the statements in the application are true and that the mark is otherwise entitled to registration.

(7) In the instance of applications concurrently being processed by the secretary of state which seek registration of the same or confusingly similar marks for the same or related goods or services, the secretary of state shall grant priority to the applications in order of filing. If a prior-filed application is granted a registration, the other application or applications shall then be rejected. Any rejected applicant may bring an action for cancellation of the registration upon grounds of prior or superior rights to the mark, in accordance with the provisions of section 48-509, Idaho Code.

48-505. CERTIFICATE OF REGISTRATION. Upon compliance by the applicant with the requirements of this act, the secretary of state shall cause a certificate of registration to be issued and delivered to the applicant. The certificate of registration shall be issued under the signature of the secretary of state and the seal of the state, and it shall show the name and business address and, for a corporation, limited liability company or partnership, the state of domestication, and if a partnership, the names of the general partners, as specified by the secretary of state, of the person claiming ownership of the mark, the date claimed for the first use of the mark

anywhere and the date claimed for the first use of the mark in this state, the class of goods or services and a description of the goods or services on or in connection with which the mark is used, a reproduction of the mark, the registration date and the term of the registration.

Any certificate of registration issued by the secretary of state under the provisions hereof or a copy thereof duly certified by the secretary of state shall be admissible in evidence as competent and sufficient proof of the registration of such mark in any actions or judicial proceedings in any court of this state.

48-506. DURATION AND RENEWAL. A registration of mark hereunder shall be effective for a term of ten (10) years from the date of registration and, upon application filed within six (6) months prior to the expiration of such term in a manner complying with the rules of the secretary of state, the registration may be renewed for a like term from the end of the expiring term. A renewal fee, payable to the secretary of state, shall accompany the application for renewal of the registration.

A registration may be renewed for successive periods of ten (10) years in like manner and the secretary of state shall issue a certificate of renewal.

Any registration in force on the date on which this act shall become effective shall continue in full force and effect for the unexpired term thereof and may be renewed by filing an application for renewal with the secretary of state in compliance with the rules of the secretary of state upon payment of the renewal fee within six (6) months prior to the expiration of the registration.

All applications for renewal under this act, whether of registrations made under this act or of registrations effected under any prior act, shall include a statement that the mark has been and is still in use.

48-507. ASSIGNMENTS, AMENDMENTS, CHANGES OF NAME AND OTHER INSTRUMENTS. (1) Any mark and its registration hereunder shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed and may be filed with the secretary of state on a form provided by the secretary of state, upon the payment of the fee provided in section 48-517, Idaho Code, payable to the secretary of state who, upon filing of the assignment, shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under this act shall be void as against any subsequent purchaser for valuable consideration without notice, unless it is filed with the secretary of state within three (3) months after the date thereof or prior to such subsequent purchase.

(2) Any registrant or applicant effecting a change of the name of the person to whom the mark was issued or for whom an application was filed may file an application for amendment with the secretary of state upon the payment of the filing fee. The secretary of state may issue to the owner a certificate of amendment of registration for the

remainder of the term of the registration or last renewal thereof.

(3) Other instruments which relate to a mark registered or application pending pursuant to this act, such as, by way of example, licenses, security interests or mortgages, may be filed in the discretion of the secretary of state pursuant to rule, provided that such instrument is in writing and duly executed.

(4) Acknowledgment shall be prima facie evidence of the execution of an assignment or other instrument and, when filed by the secretary of state, the record shall be prima facie evidence of execution.

(5) A photocopy of any instrument referred to in subsection (1), (2), or (3) of this section, shall be accepted for filing.

48-508. RECORDS. The secretary of state shall keep for public examination a record of all marks registered or renewed under this act, as well as a record of all documents filed pursuant to section 48-507, Idaho Code, until disposed of in accordance with chapter 57, title 67, Idaho Code.

48-509. CANCELLATION. The secretary of state shall cancel from the register, in whole or in part:

(1) Any registration concerning which the secretary of state receives a voluntary request for cancellation from the registrant or the assignee of record;

(2) All registrations granted under this act and not renewed in accordance with the provisions of this chapter;

(3) Any registration concerning which a court of competent jurisdiction shall find that:

(a) The registered mark has been abandoned;

(b) The registrant is not the owner of the mark;

(c) The registration was granted improperly;

(d) The registration was obtained fraudulently;

(e) The mark is or has become the generic name for the goods or services, or a portion thereof, for which it was registered;

(f) The registered mark is so similar, as to be likely to cause confusion or mistake or to deceive, to a mark registered by another person in this state prior to the date of the filing of the application for registration by the registrant hereunder, and not abandoned; or

(4) When a court of competent jurisdiction orders cancellation of a registration on any ground.

48-510. CLASSIFICATION. The secretary of state shall use the international classification of goods and services for convenience of administration of this act, but not to limit or extend the applicant's or registrant's rights, and a single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used indicating the appropriate class or classes of goods or services. When a single application includes goods or services which fall within multiple classes, the secretary of state may require payment of a fee for each class. To the extent practicable, the classification of goods and services should conform to the classification adopted by the United States patent and trademark office. Applications for renewal shall be filed using the classi-

fication of goods and services in effect when the trademark was approved by the secretary of state; provided that a registrant may request a renewed registration to be issued under the international classification of goods and services. When such a request is made, the secretary of state shall issue the renewed certificate as requested by the registrant if such renewal would not extend the registrant's rights.

48-511. FRAUDULENT REGISTRATION. Any person who shall for himself, or on behalf of any other person, procure the filing or registration of any mark in the office of the secretary of state under the provisions of this chapter, by knowingly making any false or fraudulent representation or declaration, orally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of such filing or registration, to be recovered by or on behalf of the party injured thereby in any court of competent jurisdiction.

48-512. INFRINGEMENT. Subject to the provisions of section 48-516, Idaho Code, any person who shall:

(1) Use, without the consent of the registrant, any reproduction, counterfeit, copy or colorable imitation of a mark registered under this act in connection with the sale, distribution, offering for sale, or advertising of any goods or services on or in connection with which such use is likely to cause confusion or mistake or to deceive as to the source of origin of such goods or services; or

(2) Reproduce, counterfeit, copy or colorably imitate any such mark and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in connection with the sale or other distribution in this state of such goods or services, shall be liable in a civil action by the registrant for any and all of the remedies provided in section 48-514, Idaho Code, except that under this subsection the registrant shall not be entitled to recover profits or damages unless the acts have been committed with the intent to cause confusion or mistake or to deceive.

48-513. INJURY TO BUSINESS REPUTATION -- DILUTION. The owner of a mark which is famous in this state shall be entitled, subject to the principles of equity, to an injunction against another's use of a mark, commencing after the owner's mark becomes famous, which causes dilution of the distinctive quality of the owner's mark, and to obtain such other relief as is provided in this section. In determining whether a mark is famous, a court may consider factors such as, but not limited to:

(1) The degree of inherent or acquired distinctiveness of the mark in this state;

(2) The duration and extent of use of the mark in connection with the goods and services;

(3) The duration and extent of advertising and publicity of the mark in this state;

(4) The geographical extent of the trading area in which the mark is used;

(5) The channels of trade for the goods or services with which the owner's mark is used;

(6) The degree of recognition of the owner's mark in its and in the other's trading areas and channels of trade in this state; and

(7) The nature and extent of use of the same or similar mark by third parties.

The owner shall be entitled only to injunctive relief in this state in an action brought under this section, unless the subsequent user willfully intended to trade on the owner's reputation or to cause dilution of the owner's mark. If such willful intent is proven, the owner shall also be entitled to the other remedies provided in this chapter, subject to the discretion of the court and the principles of equity.

48-514. REMEDIES. Any owner of a mark registered under this act may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof and any court of competent jurisdiction may grant injunctions to restrain such manufacture, use, display or sale as may be by the court deemed just and reasonable, and may require the defendants to pay to such owner all profits derived from and all damages suffered by reason of such wrongful manufacture, use, display or sale. The court may also order that any such counterfeits or imitations in the possession or under the control of any defendant in the case be delivered to an officer of the court, or to the complainant, to be destroyed. The court, in its discretion, may enter judgment for an amount not to exceed three (3) times such profits and damages and may award reasonable attorney's fees and costs of suit to the prevailing party in such cases where the court finds the other party committed the wrongful acts with knowledge or in bad faith or otherwise, as the circumstances of the case may warrant.

The enumeration of any right or remedy herein shall not affect a registrant's right to prosecute under any criminal law of this state.

48-515. FORUM FOR ACTIONS REGARDING REGISTRATION -- SERVICE ON OUT-OF-STATE REGISTRANTS. (1) Actions to require cancellation of a mark registered pursuant to this act or to appeal the denial of registration of a mark pursuant to this act shall be brought in the district court in and for Ada county. In an action to compel registration, the proceeding shall be based solely upon the record before the secretary of state. In an action for cancellation, the secretary of state shall not be made a party to the proceeding but shall be notified of the filing of the complaint by the clerk of the court in which it is filed and shall be given the right to intervene in the action.

(2) In any action brought against a nonresident registrant, service may be effected upon the secretary of state as agent for service of the registrant in accordance with the procedures established for service upon nonresident corporations and business entities under the Idaho rules of civil procedure.

48-516. COMMON LAW RIGHTS. Nothing herein shall adversely affect the rights or the enforcement of rights in marks acquired in good faith at any time at common law.

48-517. FEES. The secretary of state shall charge thirty dollars ($30.00) for the various applications and filing fees required in this chapter and for related services. The fees payable herein are not refundable.

48-518. TIME OF TAKING EFFECT -- REPEAL OF PRIOR ACTS -- INTENT OF ACT. This act shall be in force and effect on July 1, 1996, but shall not affect any suit, proceeding or appeal then pending. All acts relating to marks and parts of any other acts inconsistent herewith are hereby repealed on the effective date of this act, provided that as to any application, suit, proceeding or appeal, and for that purpose only, pending at the time this act takes effect the repeal shall be deemed not to be effective until final determination of said pending application, suit, proceeding or appeal.

The intent of this act is to provide a system of state trademark registration and protection substantially consistent with the federal system of trademark registration and protection under the trademark act of 1946, as amended. To that end, the construction given the federal act should be examined as persuasive authority for interpreting and construing this act.

Approved March 20, 1996.

CHAPTER 405
(S.B. No. 1452, As Amended)

AN ACT

RELATING TO MANAGEMENT OF INSTITUTIONAL FUNDS; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 50, TITLE 33, IDAHO CODE, TO DEFINE TERMS, TO GOVERN APPROPRIATION OF THE APPRECIATION, TO PROVIDE A RULE OF CONSTRUCTION, TO PROVIDE INVESTMENT AUTHORITY, TO AUTHORIZE DELEGATION OF INVESTMENT MANAGEMENT, TO PROVIDE A STANDARD OF CONDUCT, TO SPECIFY A PROCEDURE TO OBTAIN RELEASE OF RESTRICTIONS ON USE OR INVESTMENT AND TO PROVIDE A SHORT TITLE; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 50, Title 33, Idaho Code, and to read as follows:

CHAPTER 50
MANAGEMENT OF INSTITUTIONAL FUNDS

33-5001. DEFINITIONS. In this chapter:

(1) "Institutional endowment fund" means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument, but shall not include permanent endowment funds managed pursuant to chapter 7, title 57, Idaho Code.

(2) "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred to or held by an institution as an institutional fund.

(3) "Governing board" means the body responsible for the management of an institution or of an institutional fund.

(4) "Historic dollar value" means the aggregate fair value in dollars of: (a) an institutional endowment fund at the time it became an institutional endowment fund, (b) each subsequent donation to the fund at the time it is made, and (c) each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive.

(5) "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or a governmental organization to the extent that it holds funds exclusively for any of these purposes.

(6) "Institutional fund" means a fund held by an institution for its exclusive use, benefit, or purposes, but does not include: (a) a fund held for an institution by a trustee that is not an institution, or (b) a fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund.

33-5002. APPROPRIATION OF APPRECIATION. The governing board may appropriate for expenditure for the uses and purposes for which an institutional endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an institutional endowment fund over the historic dollar value of the fund as is prudent under the standard established by section 33-5006, Idaho Code. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

33-5003. RULE OF CONSTRUCTION. Section 33-5002, Idaho Code, does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income," "interest," "dividends," or "rents, issues or profits," or "to preserve the principal intact," or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this chapter.

33-5004. INVESTMENT AUTHORITY. In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary may make, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to

investments by a fiduciary, may:

(1) Invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;

(2) Retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(3) Include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and

(4) Invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.

33-5005. DELEGATION OF INVESTMENT MANAGEMENT. Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may: (1) delegate to its committees, officers or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds; (2) contract with independent investment advisors, investment counsel or managers, banks, or trust companies, so to act; and (3) authorize the payment of compensation for investment advisory or management services.

33-5006. STANDARD OF CONDUCT. In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short-term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

33-5007. RELEASE OF RESTRICTIONS ON USE OR INVESTMENT. (1) With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

(2) If written consent of the donor cannot be obtained by reason of his death, disability, unavailability, or impossibility of identification, the governing board may apply in the name of the institution to the district court for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. The attorney general shall be notified of the application and shall be given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate, or impracticable, it may

by order release the restriction in whole or in part. A release under this subsection may not change an institutional endowment fund to a fund that is not an institutional endowment fund.

(3) A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

(4) This section does not limit the application of the doctrine of cy-pres.

33-5008. SHORT TITLE. This chapter may be cited as the "Uniform Management of Institutional Funds Act."

SECTION 2. 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, 1996.

CHAPTER 406
(S.B. No. 1500, As Amended in the House)

AN ACT

RELATING TO FEES COLLECTED BY TAXING DISTRICTS; AMENDING CHAPTER 22, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2224, IDAHO CODE, TO REQUIRE AN ADVERTISEMENT AND HEARING WHEN A TAXING DISTRICT INCREASES FEES OVER A CERTAIN PERCENTAGE, TO PROVIDE REQUIREMENTS FOR THE ADVERTISEMENT AND HEARING AND TO PROVIDE THE EFFECT OF FAILING TO ADVERTISE.

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

SECTION 1. That Chapter 22, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-2224, Idaho Code, and to read as follows:

63-2224. ADVERTISEMENT OF AND HEARING ON FEE INCREASES. No taxing district may make a decision approving a fee increase that exceeds one hundred five per cent (105%) of the amount of the fee last collected or a decision imposing a new fee, unless it first holds a hearing upon such proposed fee increase or fee imposition at a regular or special meeting of the district's governing body and after it gives public notice of such hearing in the manner provided in this section. Any taxing district that is required to hold a hearing and give public notice of the hearing as provided in this section, and which fails to do so, shall have the validity of all or a portion of the fee increase that it collects be voidable.

The taxing district shall give public notice of its intent to make a decision on a proposed fee increase, that exceeds one hundred five

per cent (105%) of the amount of fees last collected prior to such decision, or a decision to impose a new fee by giving public notice either by advertising in at least one (1) newspaper as defined in section 60-106, Idaho Code, or by holding three (3) public meetings in three (3) different locations in the district or by a single mailing notice to all district residents, providing that the same information is given and providing the meeting shall be held not less than seven (7) days after mailing of the notice. An advertisement used to satisfy the requirements of this section shall be run once each week for the two (2) weeks preceding the week during which the hearing required by this section will be held. The advertisement shall state that the taxing district will meet on a certain day, time and place fixed in the advertisement, for the purpose of hearing public comments regarding any proposed fee increase beyond the limits prescribed by this section, or imposition of a new fee and to explain the reasons for such action.

Approved March 20, 1996.

CHAPTER 407
(S.B. No. 1521)

AN ACT

RELATING TO RECORDS CHECKS UPON THE TRANSFER OF A HANDGUN; AMENDING SECTION 19-5403, IDAHO CODE, TO CLARIFY CONDITIONS WHEN A FIREARMS DEALER MAY TRANSFER A HANDGUN TO AN INDIVIDUAL; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 19-5403, Idaho Code, be, and the same is hereby amended to read as follows:

19-5403. TRANSFER OF A HANDGUN -- RECORDS CHECK. No firearms dealer shall transfer any handgun unless the dealer has:

(1) (a) Obtained a completed statement of intent from the potential buyer or transferee and inspected proof of identity presented by the buyer to verify information provided on the form;

~~(2)~~ (b) Requested, by means described in this chapter, that the department conduct a records check; and

~~(3)~~ (c) Obtained a unique approval number from the department and has recorded the date and approval number on the statement of intent; or

(2) Been presented with a license to carry concealed weapons which was issued to the potential buyer pursuant to section 18-3302, Idaho Code, and issued after March 22, 1995; or

(3) (a) Obtained a completed statement of intent from the potential buyer or transferee and inspected proof of identity presented by the buyer to verify information provided on the form;

(b) Furnished a copy of the statement of intent to the county sheriff of the county of residence of the potential buyer; and

(c) Waited five (5) working days and has not received notice from the county sheriff of the county that the potential buyer or transferee is prohibited from receiving or purchasing a handgun under state or federal law. If notice is given by the county sheriff of the county on or before five (5) working days have elapsed that the potential buyer or transferee is not prohibited, the sale may proceed at that time.

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

Approved March 20, 1996.

CHAPTER 408
(S.B. No. 1550)

AN ACT

RELATING TO THE EDUCATIONAL SUPPORT PROGRAM AND ALTERNATIVE HIGH SCHOOLS; AMENDING SECTION 33-1002, IDAHO CODE, TO PROVIDE THAT MONEYS GENERATED FROM THE COMPUTATION OF SUPPORT UNITS FOR ALTERNATIVE HIGH SCHOOLS SHALL BE UTILIZED FOR ALTERNATIVE SCHOOL PROGRAMS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

1. State 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~~ postsecondary 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. 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 educa-

tion 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. Moneys generated from computation of support units for alternative schools shall be utilized for alternative school programs. School district administrative and facility costs may be included as part of the alternative school expenditures.

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.

Approved March 20, 1996.

CHAPTER 409
(S.B. No. 1533)

AN ACT

RELATING TO CHARITABLE GIFT ANNUITIES; AMENDING SECTION 41-114, IDAHO CODE, TO EXEMPT FROM THE INSURANCE CODE CERTAIN CHARITABLE ORGANIZATIONS WITH RESPECT TO THE ORGANIZATION'S ISSUANCE OF CHARITABLE GIFT ANNUITIES; AND AMENDING CHAPTER 1, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-120, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE THAT ISSUANCE OF A CHARITABLE GIFT ANNUITY DOES NOT CONSTITUTE ENGAGING IN THE BUSINESS OF INSURANCE, TO PROVIDE FOR NOTICE TO THE DONOR, TO PROVIDE FOR NOTICE TO THE IDAHO DEPARTMENT OF INSURANCE, TO PROVIDE FOR EFFECT OF FAILURE TO PROVIDE NOTICE, TO PROVIDE FOR ENFORCEMENT OF NOTICE REQUIREMENTS AND PENALTIES BY THE DIRECTOR OF THE IDAHO DEPARTMENT OF INSURANCE AND TO PROVIDE THAT THE ISSUANCE OF A QUALIFIED CHARITABLE GIFT ANNUITY DOES NOT CONSTITUTE AN UNFAIR OR DECEPTIVE ACT OR PRACTICE.

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

SECTION 1. That Section 41-114, Idaho Code, be, and the same is hereby amended to read as follows:

41-114. APPLICATION OF CODE AS TO PARTICULAR TYPES OF INSURERS. No provision of chapter 1, title 41, Idaho Code, shall apply with respect to:

(1) Domestic mutual benefit insurers (as identified in chapter 30), except as stated in chapter 30 (Mutual Benefit Associations).

(2) County mutual insurers (as identified in chapter 31), except

as stated in chapter 31 (County Mutual Insurers).

(3) Fraternal benefit societies (as identified in chapter 32), except as stated in chapter 32 (Fraternal Benefit Societies).

(4) Hospital and medical professional service corporations (as identified in chapter 34), except as stated in chapter 34 (Hospital and Medical Service Professional Corporations).

(5) Hospital trusts (as identified in chapter 37), except as stated in said chapter 37 (Idaho Hospital Liability Trust Act).

(6) Religious corporations or societies which are exempt from taxation pursuant to section 501(C)(3) of the internal revenue code, as amended, and who provide only first party property or casualty coverages exclusively to their members.

(7) Any organization described by section 501(c)(3) of the internal revenue code, as amended, but only with respect to the organization's issuance of charitable gift annuities in accordance with the terms of section 41-120, Idaho Code.

SECTION 2. That Chapter 1, 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 41-120, Idaho Code, and to read as follows:

41-120. CHARITABLE GIFT ANNUITIES. (1) As used in this section:

(a) "Charitable gift annuity" means a transfer of cash or other property by a donor to a charitable organization in return for an annuity payable over one (1) or two (2) lives, under which the actuarial value of the annuity is less than the value of the cash or other property transferred and the difference in value constitutes a charitable deduction for federal tax purposes.

(b) "Charitable organization" means an entity described by sections 501(c)(3) or 170(c) of the internal revenue code of 1986 (26 U.S.C. 501(c)(3) or 170(c)).

(c) "Qualified charitable gift annuity" means a charitable gift annuity described in sections 501(m)(5) and 514(c)(5) of the internal revenue code of 1986 (26 U.S.C. 501(m)(5) and (514(c)(5)), that is issued by a charitable organization that, on the date of the annuity agreement:

(i) Has a minimum of one hundred thousand dollars ($100,000) (after being adjusted annually by the department for inflation, beginning on July 1, 1997, by reference to the city index of the consumer price index or some equivalent measure) in unrestricted cash, cash equivalents, or publicly traded securities, exclusive of the assets funding the annuity agreement; and

(ii) Has been in continuous operation for at least three (3) years or is a successor or affiliate of a charitable organization that has been in continuous operation for at least three (3) years.

(2) It is hereby declared that the issuance of a qualified charitable gift annuity does not constitute engaging in the business of insurance in this state. A charitable gift annuity issued before July 1, 1996, is a qualified charitable gift annuity for purposes of this section and the issuance of such a charitable gift annuity does not

constitute engaging in the business of insurance in this state.

(3) When entering into an agreement for a qualified charitable gift annuity, the charitable organization shall disclose in writing to the donor, in the annuity agreement, that a qualified charitable gift annuity is not insurance under the laws of this state and is not subject to regulation by the department of insurance or protected by a guaranty association affiliated with the department. The notice provisions of this subsection must be written in a separate paragraph in the annuity agreement in a print size no smaller than that employed in the annuity agreement generally.

(4) A charitable organization that issues qualified charitable gift annuities shall notify the department in writing within ninety (90) days after the effective date of this section, or on the date on which it enters into the organization's first qualified charitable gift annuity agreement, whichever is later. Notice to the department must:

(a) Be signed by the officer or director of the charitable organization;

(b) Identify the charitable organization;

(c) Certify that:

(i) The organization is a charitable organization;

(ii) The annuities issued by the charitable organization are qualified charitable gift annuities as defined in this section.

The organization shall not be required by the department to submit additional information except to enable the department to determine appropriate penalties that may be applicable under subsection (5) of this section.

(5) The failure of a charitable organization to comply with the notice requirements imposed by this section does not prevent a charitable gift annuity that otherwise meets the requirements of this section from constituting a qualified charitable gift annuity. However, the director of the department may enforce performance of the notice requirements of this section by sending a letter by certified mail, return receipt requested, demanding that the charitable organization comply with the requirements of subsections (3) and (4) of this section. The department may fine the charitable organization in an amount not to exceed one thousand dollars ($1,000) per qualified charitable gift annuity agreement issued until the charitable organization complies with subsections (3) and (4) of this section.

(6) It is hereby declared that the issuance of a qualified charitable gift annuity does not constitute an unfair or deceptive act or practice in the conduct of trade or commerce prohibited by chapter 6, title 48, Idaho Code.

Approved March 20, 1996.

CHAPTER 410
(S.B. No. 1567, As Amended in the House)

AN ACT

RELATING TO CARE FOR THE MEDICALLY INDIGENT; REPEALING SECTIONS 31-3504, 31-3505, 31-3507, 31-3522, 31-3523, 31-3524, 31-3525, 31-3526, 31-3527 AND 31-3528, IDAHO CODE; AMENDING SECTION 31-3501, IDAHO CODE, TO CLARIFY THE DECLARATION OF POLICY; AMENDING SECTION 31-3502, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-3503, IDAHO CODE, TO SPECIFY THE POWER AND DUTY OF THE BOARD OF COUNTY COMMISSIONERS TO PROVIDE FOR THE CARE OF MEDICALLY INDIGENT RESIDENTS OF THE COUNTY AND PROVIDE CERTAIN EMERGENCY CARE FOR NONRESIDENTS FOR THE PERIOD BETWEEN JULY 1, 1996 AND JUNE 30, 1997; AMENDING CHAPTER 35, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3503A, IDAHO CODE, TO SPECIFY POWERS AND DUTIES OF THE ADMINISTRATOR; AMENDING CHAPTER 35, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3503B, IDAHO CODE, TO AUTHORIZE RECIPROCAL AGREEMENTS WITH OTHER STATES; AMENDING CHAPTER 35, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3504, IDAHO CODE, TO PROVIDE FOR A WRITTEN APPLICATION FOR FINANCIAL ASSISTANCE AND TO PROVIDE A LIEN UPON APPLICATION; AMENDING CHAPTER 35, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3505, IDAHO CODE, TO GOVERN THE TIME AND MANNER FOR FILING APPLICATIONS FOR ASSISTANCE; AMENDING CHAPTER 35, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3505A, IDAHO CODE, TO PROVIDE A SCHEDULE TO GOVERN THE INVESTIGATION OF AN APPLICATION OR REQUEST; AMENDING CHAPTER 35, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3505B, IDAHO CODE, TO PROVIDE FOR APPROVAL OF APPLICATION; AMENDING CHAPTER 35, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3505C, IDAHO CODE, TO PROVIDE FOR INITIAL DECISION BY THE BOARD; AMENDING CHAPTER 35, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3505D, IDAHO CODE, TO PROVIDE AN APPEAL FOR AN ADVERSE DECISION; AMENDING CHAPTER 35, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3505E, IDAHO CODE, TO REQUIRE A HEARING ON APPEAL OF AN INITIAL DETERMINATION; AMENDING CHAPTER 35, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3505F, IDAHO CODE, TO AUTHORIZE A PANEL FOR ARBITRATION OF DETERMINATION OF A NECESSARY MEDICAL SERVICE; AMENDING CHAPTER 35, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3505G, IDAHO CODE, TO PROVIDE A PETITION FOR JUDICIAL REVIEW OF A FINAL DETERMINATION; AMENDING SECTION 31-3506, IDAHO CODE, TO GOVERN DETERMINATION OF THE OBLIGATED COUNTY; AMENDING CHAPTER 35, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3507, IDAHO CODE, TO REQUIRE NOTIFICATION OF ADMISSION AND TO AUTHORIZE TRANSFER OF A MEDICALLY INDIGENT PERSON; AMENDING SECTION 31-3508, IDAHO CODE, TO GOVERN THE AMOUNT TO BE PAID FOR NECESSARY MEDICAL SERVICES; AMENDING SECTION 31-3509, IDAHO CODE, TO PROVIDE REPAYMENT OF AMOUNTS COLLECTED; AMENDING SECTION 31-3510, IDAHO CODE, TO SPECIFY THE RIGHT OF SUBROGATION FOR THE COUNTY AND THE CATASTROPHIC HEALTH CARE COSTS PROGRAM; AMENDING SECTION 31-3510A, IDAHO CODE, TO GOVERN METHOD FOR REIMBURSEMENT OF FINANCIAL ASSIS-

TANCE; AMENDING SECTION 31-3511, IDAHO CODE, TO PROVIDE VIOLATIONS AND PENALTIES; AMENDING SECTION 31-3516, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-3519, IDAHO CODE, TO GOVERN PAYMENTS FOR SERVICES; AMENDING SECTION 31-3520, IDAHO CODE, TO AUTHORIZE THE COUNTY TO CONTRACT FOR PROVISION OF NECESSARY MEDICAL SERVICES; AMENDING CHAPTER 8, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-863, IDAHO CODE, TO AUTHORIZE A LEVY BY THE BOARD OF COUNTY COMMISSIONERS; AND DECLARING AN EMERGENCY FOR SECTION 6 OF THIS ACT.

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

SECTION 1. That Sections 31-3504, 31-3505, 31-3507, 31-3522, 31-3523, 31-3524, 31-3525, 31-3526, 31-3527 and 31-3528, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 31-3501, Idaho Code, be, and the same is hereby amended to read as follows:

31-3501. DECLARATION OF POLICY. It is the policy of this state that each person, to the maximum extent possible, is responsible for his or her own medical care and to that end, shall be encouraged to purchase his or her own medical insurance with coverage sufficient to prevent them from needing to request assistance pursuant to this chapter. However, i~~I~~n order to safeguard the public health, safety and welfare, and to provide suitable facilities and provisions for the care and hospitalization of persons in this state, and, in the case of medically indigent persons, to provide for the payment thereof, the respective counties of this state and the administrator shall have the duties and powers as hereinafter provided.

SECTION 3. That Section 31-3502, Idaho Code, be, and the same is hereby amended to read as follows:

31-3502. 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) "Medically indigent" means any person who is in need of ~~hospitalization~~ necessary medical services and who, if an adult, together with his or her spouse, or whose parents or guardian if a minor, does not have income and other resources available to him from whatever source ~~which shall be~~ sufficient ~~to enable the person~~ to pay for necessary medical services. Nothing in this definition shall ~~preclude~~ prevent the board of county commissioners and administrator from requiring ~~medically indigent~~ the applicant and obligated persons to reimburse the county and the catastrophic health care costs program, where appropriate, for all or a portion of their medical expenses, when investigation of their application pursuant to this chapter, determines their ability to do so.

(2) "Hospital" means a facility licensed and regulated pursuant to sections 39-1301 through 39-1314, Idaho Code, excluding state institutions.

(3) "Dependent" means any person whom a taxpayer could claim as a

dependent under the income tax laws of the state of Idaho.

(4) "Applicant" means any person who is or may be requesting financial assistance under this chapter.

(5) "Reimbursement rates" means the unadjusted medicaid rate of reimbursement for medical charges allowed pursuant to title XIX of the social security act, as amended. For long-term care facilities, maximum "reimbursement rates" means the unadjusted medicaid rate of reimbursement allowed pursuant to the medical assistance program as determined by chapter 1, title 56, Idaho Code, or the unadjusted medicare rate of reimbursement established under title XVIII of the social security act, as amended, whichever is greater.

(~~5~~6) "Board" means the board of county commissioners.

~~(6)--"Sick"--means--any--person--affected--with--disease-or-who-is unable-to-care-for-himself-and-who-does-not-have-the-means-to--provide for-his-own-support,-but-who-does-not-necessarily-require-the-services of-a-hospital-as-defined-in-subsection-(2)-of-this-section.~~

(7) ~~"Indigent"--means-any-person-who-is-destitute-of-property-and unable-to-provide-for-the--necessities--of--life~~ "Obligated persons" means those persons who are legally responsible for an applicant.

(8) "County hospital" means any county approved institution or facility for the care of sick persons.

(9) "Administrator" means the board of the catastrophic health care cost program, as provided in section 31-3517, Idaho Code.

(10) "Catastrophic health care costs" means all necessary medical expenses for ~~which-an-applicant-for-relief-under-this-chapter-or-any third-party-are-not-liable-and~~ services which are incurred by a recipient~~,-and-not-paid-for-or-reimbursed-by-third-party-payers,-during-any twelve-(12)-month-period,~~ for which the reimbursement rate exceeds in aggregate the sum of ten thousand dollars ($10,000) in any twelve (12) consecutive month period.

(11) "Recipient" means an individual determined eligible for ~~county~~ necessary medical ~~assistance~~ services under ~~uniform--county guidelines-on-indigent-eligibility-adopted-by-the-administrator-pursuant-to-law~~ this chapter.

(12) ~~"Residency"---or--"residence",--as--used--in--this--chapter,~~ "Resident" means a ~~physical-presence~~ person with a home, house, place of abode, place of habitation, dwelling or place where ~~one-actually lives~~ he or she actually lived for a consecutive period of thirty (30) days or more. A resident does not include a person who comes into this state for temporary purposes, including, but not limited to, education, vacation, or seasonal labor. Entry into active military duty shall not change a person's residence for the purposes of this chapter. Those physically present within the following facilities and institutions shall be residents of the county where they were residents prior to entering the facility or institution:

(a) Correctional facilities;

(b) Nursing homes or residential care facilities;

(c) Other medical facility or institution.

(13) "Emergency service" means a service provided for a medical condition in which sudden, serious and unexpected symptoms of illness or injury are sufficiently severe to necessitate or call for immediate medical care.

(14) "Provider" means any person, firm, or corporation certified

or licensed by the state of Idaho or holding an equivalent license or certification in another state, that provides necessary medical services as it appears on an application for assistance pursuant to this chapter.

(15) "Third party applicant" means a person other than an obligated person who completes, signs and files an application on behalf of a patient.

(16) "Clerk" means the clerk of the board or designated case manager approved by the board and administrator.

(17) "Resources" means all property, whether tangible or intangible, real or personal, liquid or nonliquid, including, but not limited to, all forms of public assistance, crime victim's compensation, worker's compensation, veterans benefits, medicaid, medicare and any other property from any source for which an applicant and/or an obligated person may be eligible or in which he or she may have an interest. Resources shall include the ability of an applicant and obligated persons to pay for necessary medical services over a period of up to three (3) years. For purposes of determining approval for medical indigency only, resources shall not include the value of the homestead on the applicant or obligated persons residence, a burial plot, exemptions for personal property allowed in section 11-605(1) through (3), Idaho Code, and additional exemptions allowed by county resolution.

(18) A. "Necessary medical services" means a requested or provided medical service required in order to identify or treat a medically indigent person's health condition, illness or injury and is:

(a) Consistent with the symptoms, diagnosis or treatment of the medical indigent's condition, illness or injury;

(b) In accordance with generally accepted standards of medical or surgical practice then prevailing in the community where the services were provided;

(c) Furnished on an outpatient basis whenever it is safe, efficient and reasonable to do so;

(d) Not provided primarily for the convenience of the medically indigent person or the provider;

(e) The standard, most economical service or item that can safely, reasonably and ethically be provided.

B. Necessary medical services shall not include the following:

(a) Bone marrow transplants;

(b) Organ transplants;

(c) Elective, cosmetic and/or experimental procedures;

(d) Services related to, or provided by, residential and/or shelter care facilities;

(e) Normal, uncomplicated pregnancies, excluding caesarean section, and childbirth well-baby care;

(f) Medicare copayments and deductibles; and

(g) Services provided by, or available to an applicant from state, federal and local health programs.

Provided however, each board may determine, by ordinance or resolution duly adopted in its county, to include as necessary medical services additional services not covered in this section. Necessary medical services provided by this option shall not be paid by the catastrophic health care costs program, and shall remain the liability of the respective county.

SECTION 4. That Section 31-3503, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) Care for and maintain the medically indigent~~, and may provide for the care of other sick persons~~ residents of their counties as provided in this chapter up to ten thousand dollars ($10,000) per claim in the aggregate over a twelve (12) month period with the remainder being paid by the state catastrophic health care cost program pursuant to section 31-3519, Idaho Code~~, and for this purpose said boards are authorized to levy an ad valorem tax not to exceed ten--one hundredths of--one percent (0.10%) of the market value for assessment purposes of all taxable property in the county. Such levy shall be exempt from the limitation imposed in section 63-923(1), Idaho Code~~.

(2) Have the right to contract, transfer patients, negotiate provider agreements, and all other powers incident to the duties created by this chapter.

(3) From July 1, 1996, to June 30, 1997, pay for emergency services for a nonresident to the point of stabilization as set forth in section 31-3507, Idaho Code, and when necessary, for costs of transfer to the nonresident's place of residence, up to five thousand dollars ($5,000) per claim in the aggregate over a twelve (12) month period with the remainder being paid by the state catastrophic health care cost program pursuant to section 31-3519, Idaho Code.

(4) Have the jurisdiction and power to provide county hospitals and public general hospitals for the county and others who are sick, injured, maimed, aged and infirm and to erect, enlarge, purchase, lease, or otherwise acquire, and to officer, maintain and improve hospitals, hospital grounds, nurses' homes, shelter care facilities and residential care homes as defined in section 39-3301, Idaho Code, superintendent's quarters, medical clinics, as that term is defined in section 39-1319, Idaho Code, medical clinic grounds or any other necessary buildings, and to equip the same, and to replace equipment, and for this purpose said boards may levy an additional tax of not to exceed six hundredths percent (.06%) of the market value for assessment purposes on all taxable property within the county. The term public general hospitals as used in this subsection shall be construed to include nursing homes.

SECTION 5. That Chapter 35, 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 31-3503A, Idaho Code, and to read as follows:

31-3503A. POWERS AND DUTIES OF ADMINISTRATOR. The administrator shall, under such limitations and restrictions as are prescribed by law:

(1) Pay for necessary medical services for a resident medically indigent person where the reimbursement rate for the claim exceeds in aggregate the sum of ten thousand dollars ($10,000) during a twelve (12) month period;

(2) From July 1, 1996, through June 30, 1997, pay for emergency services of a nonresident to the point of stabilization as set forth in section 31-3507, Idaho Code, and, when necessary, for costs of transfer to the nonresident's place of residence, where the reimbursement rate for the claim exceeds in the aggregate during a twelve (12) month period, the sum of five thousand dollars ($5,000);

(3) Require, as the administrator deems necessary, annual reports from each county and each hospital and provider including, but not limited to, the following:

(a) From each county and for each applicant:
- (i) case number and the date services began;
- (ii) age;
- (iii) residence;
- (iv) sex;
- (v) diagnosis;
- (vi) income;
- (vii) family size;
- (viii) amount of costs incurred including provider, legal and administrative charges;
- (ix) approval or denial; and
- (x) reasons for denial.

(b) From each hospital:
- (i) 990 tax forms or comparable information;
- (ii) cost of charges where charitable care was provided; and
- (iii) administrative and legal costs incurred in processing claims under this chapter.

SECTION 6. That Chapter 35, 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 31-3503B, Idaho Code, and to read as follows:

31-3503B. RECIPROCAL AGREEMENTS -- OUT-OF-STATE TREATMENT. (1) The governor of the state of Idaho or his or her designee is empowered to negotiate reciprocal agreements with other states for the provision of necessary medical services for residents of this and other states.

(2) No payment shall be made for necessary medical services to an out-of-state provider unless a reciprocal agreement has been entered into by the governor of this state, or unless contracted for pursuant to sections 31-3520 and 31-3522, Idaho Code.

SECTION 7. That Chapter 35, 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 31-3504, Idaho Code, and to read as follows:

31-3504. APPLICATION FOR FINANCIAL ASSISTANCE. (1) An applicant requesting assistance under this chapter from the state or any county in this state shall complete a written application on a uniform form agreed to by the Idaho association of counties and the Idaho hospital association prior to June 30, 1996. The truth of the matters contained in the application shall be sworn to by the applicant. The application

shall be signed by the applicant or on the applicant's behalf and filed in the clerk's office.

(2) If a third party application is filed, the application shall be as complete as practical and presented in the same form and manner as set forth above.

(3) Follow-up necessary medical services based on a treatment plan, for the same condition, preapproved by the board, may be provided for a maximum of six (6) months from the date of the original application without requiring an additional application; however, a request for additional treatment not specified in the approved treatment plan shall be filed with the clerk ten (10) days prior to receiving services. Beyond the six (6) months, requests for additional treatment related to an original diagnosis in accordance with a preapproved treatment plan shall be filed ten (10) days prior to receiving services and an updated application may be requested by the board.

(4) Upon application for financial assistance pursuant to this chapter an automatic lien shall attach to all real and personal property of the applicant and on insurance benefits to which the applicant may become entitled. The lien shall also attach to any additional resources to which it may legally attach not covered above. The lien created by this section may be, in the discretion of the board, perfected upon recording, in any county recorder's office in this state in which the applicant and obligated party own property and with the secretary of state, a notice of application for medical indigency benefits on a uniform form agreed to by the Idaho association of counties and the Idaho hospital association prior to June 30, 1996, which form shall be recorded as provided herein within thirty (30) days from receipt of an application, and such lien shall have a priority date as of the date the necessary medical services were provided. An application for assistance pursuant to this chapter shall waive any confidentiality granted by state law to the extent necessary to carry out the intent of this section.

SECTION 8. That Chapter 35, 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 31-3505, Idaho Code, and to read as follows:

31-3505. TIME AND MANNER OF FILING APPLICATIONS AND REQUESTS. Applicants and requests for necessary medical services shall be filed with the clerk according to the following time limits. Filing is complete upon receipt by the clerk.

(1) An application for nonemergency necessary medical services shall be filed ten (10) days prior to receiving services from the provider.

(2) An application for emergency necessary medical services shall be made any time within thirty (30) days following the first day of the provision of necessary medical services from the provider or in the case of hospitalization, thirty (30) days from the date of admission.

(3) Requests for additional treatment related to an original diagnosis in accordance with a preapproved treatment plan shall be

filed ten (10) days prior to receiving services.

(4) (a) A delayed application for necessary medical services may be filed up to one hundred eighty (180) days after the provision of necessary medical services on condition that the provider and/or applicant demonstrates that an application or claim for social security, third party insurance, medicaid, medicare, crime victims compensation, and/or worker's compensation was timely filed within ninety (90) days following the first day of the provision of necessary medical services from the provider or, in the case of hospitalization, ninety (90) days from the date of admission.

(b) In the event that a county determines that a different county is the obligated county, an application may be filed within thirty (30) days in the other county.

SECTION 9. That Chapter 35, 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 31-3505A, Idaho Code, and to read as follows:

31-3505A. INVESTIGATION OF APPLICATION OR REQUEST. (1) The clerk shall interview the applicant and investigate the information provided on the application, along with all other required information, in accordance with the procedures established by the board and this chapter. The clerk shall promptly notify the applicant, or third party filing an application on behalf of an applicant, of any material information missing from the application which, if omitted, may cause the application to be denied for incompleteness. In addition, any provider requesting notification shall be notified at the same time. When necessary, such persons as may be deemed essential, may be compelled by the clerk to give testimony and produce documents and other evidence under oath in order to complete the investigation. The clerk is hereby authorized to issue subpoenas to carry out the intent of this provision and to otherwise compel compliance in accordance with provisions of Idaho law.

(2) The applicant or third party filing an application on behalf of an applicant to the extent they have knowledge, shall have a duty to cooperate with the county in investigating, providing documentation, submitting to an interview and ascertaining eligibility and shall have a continuing duty to notify the responsible county of the receipt of resources after an application has been filed.

(3) The clerk shall have twenty (20) days to complete the investigation of an application for nonemergency necessary medical services.

(4) The clerk shall have forty-five (45) days to complete the investigation of an application for emergency necessary medical services.

(5) In the case of follow-up treatment, the clerk shall have ten (10) days to complete an interview on a request for additional treatment to update the financial and other information contained in a previous application for an original diagnosis in accordance with a treatment plan previously approved by the board.

(6) Upon completion of the interview and investigation of the

application or request, a statement of the clerk's findings shall be filed with the board.

SECTION 10. That Chapter 35, 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 31-3505B, Idaho Code, and to read as follows:

31-3505B. APPROVAL. The board shall approve an application for assistance if it determines that necessary medical services have been or will be provided to a medically indigent person in accordance with this chapter; provided, the amount paid by the county for any medically indigent resident shall not exceed in aggregate the sum of ten thousand dollars ($10,000) per applicant for any consecutive twelve (12) month period.

SECTION 11. That Chapter 35, 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 31-3505C, Idaho Code, and to read as follows:

31-3505C. INITIAL DECISION BY THE BOARD. The board shall make an initial determination on an application within fifteen (15) days from receipt of the clerk's statement and within five (5) days from receiving the clerk's statement on a request. The initial determination shall be mailed to the applicant or the third party making application on behalf of the applicant, as the case may be, and each provider listed on the application within five (5) days of the initial determination.

SECTION 12. That Chapter 35, 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 31-3505D, Idaho Code, and to read as follows:

31-3505D. APPEAL OF INITIAL DETERMINATION. An applicant or provider may appeal an adverse initial determination of the board by filing a written notice of appeal with the board within twenty-eight (28) days of the date of the initial determination. If no appeal is filed within the time allowed, the determination of the board shall become final.

SECTION 13. That Chapter 35, 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 31-3505E, Idaho Code, and to read as follows:

31-3505E. HEARING ON APPEAL OF INITIAL DETERMINATION. The board shall hold a hearing on the appeal within seventy-five (75) days of receipt of the notice of appeal. The hearing may be continued by the board for not more than forty-five (45) days from the date of the hearing to allow the applicant to produce additional information, documents, records, testimony or other evidence required in the discre-

tion of the board or to allow a decision on eligibility of the applicant for benefits to be reached by another agency such as, but not limited to, the social security administration or the state of Idaho department of health and welfare. The hearing may be continued for additional periods by mutual stipulation of the board and the applicant. The board shall make a final determination within thirty (30) days of the conclusion of the hearing. The final determination of the board shall be mailed to the applicant, or the third party making application on behalf of an applicant, as the case may be and each provider listed on the application, within five (5) days of the date of the final determination.

SECTION 14. That Chapter 35, 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 31-3505F, Idaho Code, and to read as follows:

31-3505F. ARBITRATION. In the event that a county determines that a service is not a necessary medical service, a provider may submit the issue to a panel for arbitration as follows:

(1) Within thirty (30) days of the determination, the board and the provider shall each appoint one (1) licensed medical or osteopathic doctor with expertise in the condition treated or to be treated. The two (2) appointees shall jointly select a third medical or osteopathic licensed doctor with equivalent expertise. The panel shall review such information as it deems necessary and render a decision within thirty (30) days as to whether the covered service is a necessary medical service.

(2) There shall be no judicial or other review or appeal of the findings of the panel. No party shall be obligated to comply with or otherwise be affected or prejudiced by the proposals, conclusions or suggestions of the panel or any member or segment thereof; however, in the interest of due consideration being given to such proceedings and in the interest of encouraging consideration of claims informally and without the necessity of litigation, the applicable statute of limitations shall be tolled and not deemed to run during the time that such a claim is pending before the panel and for thirty (30) days thereafter.

(3) Expenses incurred by the members of the panel in the performance of their duties will be borne by the respective parties making their appointment, and expenses of the third member shall be divided equally among the respective parties.

SECTION 15. That Chapter 35, 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 31-3505G, Idaho Code, and to read as follows:

31-3505G. PETITION FOR JUDICIAL REVIEW OF FINAL DETERMINATION. If, after a hearing as provided in section 31-3505E, Idaho Code, the final determination of the board is to deny an application for financial assistance with necessary medical services, the applicant, or a third party making application on an applicant's behalf, may seek

judicial review of the final determination of the board in the manner provided in section 31-1506, Idaho Code.

SECTION 16. That Section 31-3506, Idaho Code, be, and the same is hereby amended to read as follows:

31-3506. OBLIGATED COUNTY. ~~Persons are not required to establish a time duration of residency in Idaho to become eligible for county medical assistance.~~ The county obligated for payment shall be determined as follows:

(1) The obligated county for payment of pharmaceuticals for noninstitutionalized individuals shall be the county where the applicant currently resides.

(2) The obligated county for payment ~~for individuals institutionalized in a residential care home, nursing home, hospital, or other medical facility,~~ of necessary medical services for medical indigent individuals shall be as follows:

(a) The last county in which the applicant or head of household has maintained a residence for six (6) consecutive months or longer within the past five (5) years preceding application shall be obligated. If the applicant or head of household maintains another residence in a different county or state for purposes of employment, the county where the family residence is maintained shall be deemed the applicant's or head of household's place of residence.

(b) If an individual has not resided in any county for a period of six (6) months within the five (5) years preceding incurrence of medical costs for which counties have a responsibility in whole or in part, then the county where the applicant maintained a residence for at least thirty (30) days immediately preceding such incurrence shall be the obligated county.

(c) Active military duty, ~~attendance at institutions of higher learning,~~ or being admitted as a patient in a hospital, ~~residential care home,~~ nursing home, other medical facility or institution, shall not change the obligated county. The county obligated shall remain the same county that would have been obligated prior to institutionalization as above described.

(d) For full-time students at public institutions of higher learning, the obligated county shall be the county of residence of the applicant unless an obligated person, for whom the applicant is claimed as a dependent, resides in another county or state.

SECTION 17. That Chapter 35, 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 31-3507, Idaho Code, and to read as follows:

31-3507. NOTICE OF ADMISSION AND TRANSFER OF A MEDICALLY INDIGENT PATIENT. (1) A hospital shall notify the clerk of the county or counties responsible within one (1) working day of identifying a patient as potentially medically indigent. The notice of admission shall include the following if available:

(a) Name, address, telephone number, date of birth, social secu-

rity number and date of admission of the patient;

(b) Name, address and telephone number of responsible party;

(c) Name of attending physician;

(d) Diagnosis and/or reason for admission;

(e) Name, address and telephone number of the person completing the notice of admission.

(2) A county or administrator shall have the right to have an approved medically indigent person transferred to a hospital or facility, in accordance with requirements of the federal emergency medical treatment and active labor act, 42 U.S.C., section 1395d.d.; provided however, treatment for the necessary medical service must be available at the designated facility, and the county contract physician, or the attending physician if no county contract physician is available, must certify that the transfer of such person would not present a significant risk of further injury. The county, the administrator, and hospital from which or to which a person is taken or removed as herein provided, as well as the attending physician(s), shall not be liable in any manner whatsoever and shall be immune from suit for any causes of action arising from a transfer performed in accordance with this section. The immunities and freedom from liability granted pursuant to this section shall extend to any person, firm or corporation acting in accordance with this section.

SECTION 18. That Section 31-3508, Idaho Code, be, and the same is hereby amended to read as follows:

31-3508. AMOUNT OF AID FOR ~~HOSPITALIZATION~~ NECESSARY MEDICAL SERVICES. The county responsible for payment of ~~hospitalization~~ necessary medical services of a medically indigent person shall pay an amount not to exceed the reimbursement rates to the ~~hospital~~ provider rendering such services. The bill submitted for payment pursuant to section ~~31-3405~~ 31-3519, Idaho Code, shall show the total ~~hospital~~ provider charges less any amounts which have been received under any other federal or state law. Bills of less than twenty-five dollars ($25.00) shall not be presented for payment.

SECTION 19. That Section 31-3509, Idaho Code, be, and the same is hereby amended to read as follows:

31-3509. COLLECTIONS BY ~~HOSPITALS~~ PROVIDERS. ~~Hospitals~~ Providers making claims for ~~the hospitalization~~ necessary medical services of medically indigent persons shall make all reasonable efforts to determine liability for the account so incurred from any available insurance or other sources available for payment of such expenses prior to submitting the bill to the county for payment. In the event any payments are thereafter received for charges which have been paid by a county and/or the administrator pursuant to the provisions of this chapter, said sums up to the amount actually paid by the county and/or the administrator shall be paid over to such county and/or administrator.

SECTION 20. That Section 31-3510, Idaho Code, be, and the same is hereby amended to read as follows:

31-3510. ~~COUNTY'S~~ RIGHT OF SUBROGATION. Upon payment of ~~charges for hospitalization of a medically indigent person~~ a claim for necessary medical services pursuant to this chapter, the county and the catastrophic health care costs program making such payment shall become subrogated to all the rights of the hospital and other providers and to all rights of the medically indigent person against any third parties who may be the cause of or liable for such ~~hospitalization~~ necessary medical services.

SECTION 21. That Section 31-3510A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3510A. REIMBURSEMENT. ~~By the acceptance of county assistance, an applicant agrees to reimburse the county from which assistance is received, for any portion of the hospitalization or other medical expense paid on behalf of the applicant if the county commissioners find~~ (1) Receipt of financial assistance pursuant to this chapter shall obligate an applicant to reimburse the county from which assistance is received and the catastrophic health care costs program for such reasonable portion of the financial assistance paid on behalf of the applicant as the board may determine that the applicant is able to pay ~~any portion of the charges~~ from resources over a reasonable period of time. Cash amounts received shall be prorated between the county and the state in proportion to the amount each has paid.

(2) A final determination shall not relieve the applicant's duty to make additional reimbursement from resources if the board subsequently finds within a reasonable period of time that there has been a substantial change in circumstances such that the applicant is able to pay additional amounts up to the total claim paid on behalf of the applicant.

(3) A final determination shall not prohibit the board from reviewing a petition from an applicant to reduce an order of reimbursement based on a substantial change in circumstances.

(4) The automatic lien created pursuant to the chapter may be filed and recorded in any county of this state wherein the applicant has resources and may be liquidated or unliquidated in amount. Nothing herein shall prohibit an applicant from executing a consensual lien in addition to the automatic lien created by filing an application pursuant to this chapter. In the event that resources can be located in another state, the clerk may file the lien with the district court and provide notice to the recipient. The recipient shall have twenty (20) days to object, following which the district court shall enter judgment against the recipient. The judgment entered may thereafter be filed as provided for the filing of a foreign judgment in that jurisdiction.

(5) The county shall have the same right of recovery as provided to the state of Idaho pursuant to sections 56-218 and 56-218A, Idaho Code.

(6) The board may require the employment of such of the medically indigent as are capable and able to work and whose attending physician certifies they are capable of working.

(7) Moneys received by a county as reimbursement shall be credited to the county indigent fund and need not be budgeted or appropri-

ated in the manner required by chapter 16, title 31, Idaho Code, but shall be available for expenditure at any time for the purposes of the county indigent fund.

(8) If, after a hearing, the final determination of the board is to require a reimbursement amount or rate the applicant believes excessive, the applicant may seek judicial review of the final determination of the board in the manner provided in section 31-1506, Idaho Code.

SECTION 22. That Section 31-3511, Idaho Code, be, and the same is hereby amended to read as follows:

31-3511. VIOLATIONS AND PENALTIES. (1) Any applicant or obligated person who wilfully gives false or misleading information to a hospital, a county or an agent thereof, or to any individual in order to obtain ~~hospitalization~~ necessary medical services as or for a medically indigent person, or any person who obtains ~~hospitalization~~ necessary medical services as a medically indigent person who fails to disclose insurance, ~~workmen's~~ worker's compensation, resources, or other benefits available to him as payment or reimbursement of such expenses incurred, shall be guilty of a misdemeanor and punishable under the general provisions for punishment of a misdemeanor. In addition, any applicant who fails to cooperate with a county or makes a material misstatement or material omission to a county in an application pursuant to this chapter shall be ineligible for nonemergency assistance under this chapter for a period of two (2) years.

(2) The board shall not have jurisdiction to hear and shall not approve an application for necessary medical services unless an application in the form prescribed by this chapter is received by the clerk in accordance with the provisions of this chapter.

(3) The board may deny an application if material information required in the application or request is not provided by the applicant or a third party or if the applicant has divested himself or herself of resources within one (1) year prior to filing an application in order to become eligible for assistance pursuant to this chapter. An applicant who is sanctioned by federal or state authorities and loses medical benefits as a result of failing to cooperate with the respective agency or making a material misstatement or material omission to the respective agency shall be ineligible for assistance pursuant to this chapter for the period of such sanction.

(4) If the board fails to act upon an application within the time lines required under this chapter, the application shall be deemed approved and payment made as provided in this chapter.

(5) An applicant may appeal a decision rendered by the board pursuant to this section in the manner provided in section 31-1506, Idaho Code.

SECTION 23. That Section 31-3516, Idaho Code, be, and the same is hereby amended to read as follows:

31-3516. SEPARABILITY. If any provision of this ~~act~~ chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

~~the act~~ this chapter, which can be given effect without the invalid provisions or applications, and to this end the provisions of this ~~act~~ chapter are declared to be severable.

SECTION 24. That Section 31-3519, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) Upon receipt of a final determination approving an application for necessary medical services, an applicant, a provider, or the third party on behalf of the applicant, shall, within sixty (60) days, submit a county claim in accordance with the procedures provided in chapter 15, title 31, Idaho Code. The clerk shall calculate, or cause to be calculated, the medical provider reimbursement rate.

(2) Payment shall be made to providers on behalf of an applicant and shall be made on the next payment cycle after all necessary forms are presented by the claimant to the county and the clerk has determined the medical provider reimbursement rate. In no event shall payment be delayed longer than sixty (60) days from receipt of the county claim or provider bill.

(3) Payment to a provider pursuant to this chapter shall be payment of the debt in full and the provider shall not seek additional funds from the applicant.

(4) In no event shall a county be obligated to pay, pursuant to this chapter, an amount which exceeds the reimbursement rate for the entire medical bill as calculated above.

(5) The clerk shall forward appropriate claims to the catastrophic health care costs program within fourteen (14) days after determining an applicant's eligibility for that program and shall include a statement of which costs the clerk has or intends to pay.

(6) The catastrophic health care cost program shall, within forty-five (45) days after approval by the administrator, submit the claim to the state controller for payment.

SECTION 25. That Section 31-3520, Idaho Code, be, and the same is hereby amended to read as follows:

31-3520. CONTRACT FOR ~~MAINTENANCE OF~~ PROVISION OF NECESSARY MEDICAL SERVICES FOR THE MEDICALLY INDIGENT. The boards of county commissioners in their respective counties, may contract for the ~~care, protection and maintenance of~~ provision of necessary medical services to

the medically indigent ~~or sick~~ of the county and may, by ordinance, limit the provision of and payment for nonemergency necessary medical services to a contract provider. They shall require the contractor to enter into a bond to the county with two (2) or more approved sureties, in such sum as the board may fix, conditioned for the faithful performance of his duties and obligations as such contractor, and require him to report to the board quarterly all persons committed to his charge, showing the expense attendant upon their care and maintenance.

SECTION 26. That Chapter 8, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-863, Idaho Code, and to read as follows:

31-863. LEVY FOR CHARITIES FUND. For the purpose of nonmedical indigent assistance pursuant to chapter 34, title 31, Idaho Code, and for the purpose of providing financial assistance on behalf of the medically indigent, pursuant to chapter 35, title 31, Idaho Code, said boards are authorized to levy an ad valorem tax not to exceed ten hundredths of one percent (.10%) of the market value for assessment purposes of all taxable property in the county.

SECTION 27. An emergency existing therefor, which emergency is hereby declared to exist, Section 6 of this act shall be in full force and effect on and after its passage and approval.

Approved March 20, 1996.

CHAPTER 411
(S.B. No. 1555)

AN ACT

RELATING TO THE NATIONAL GUARD; AMENDING SECTION 46-605, IDAHO CODE, TO INCREASE THE STATUTORY PAY OF ENLISTED PERSONNEL, COMMISSIONED OFFICERS AND WARRANT OFFICERS OF THE NATIONAL GUARD WHEN THE NATIONAL GUARD OR ANY PART THEREOF IS ORDERED ON ACTIVE DUTY IN THE SERVICE OF THE STATE AND TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 46-605, Idaho Code, be, and the same is hereby amended to read as follows:

46-605. PAY ON ACTIVE DUTY. When the national guard or any part thereof is ordered on active duty in the service of the state, the enlisted personnel, the commissioned officers and warrant officers so ordered shall be entitled to pay of ~~twenty~~fifty-five dollars ($~~2~~55.00) per day or shall be entitled to the same pay as enlisted personnel, officers and warrant officers of like grade and length of service in

the armed forces of the United States, whichever sum is greater, and they shall be entitled to the same allowances as enlisted personnel, officers and warrant officers of like grade and length of service in the armed forces of the United States. All payments of pay and allowances under this section shall be made by the adjutant general. No deductions shall be made from the pay of officers or enlisted personnel in active service of the state for dues or other financial obligations imposed by any ~~by-law~~ bylaw, rules or regulations of a civil character. When lodging or meals, or both, cannot be provided by the state, the adjutant general may pay a per diem in addition to the pay and allowances.

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, 1996.

Approved March 20, 1996.

CHAPTER 412
(H.B. No. 863)

AN ACT

TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE PERMANENT BUILDING FUND; TRANSFERRING MONEYS FROM THE PUBLIC BUILDING FUND TO THE PERMANENT BUILDING FUND; APPROPRIATING MONEYS FROM THE PERMANENT BUILDING FUND TO THE DIVISION OF PUBLIC WORKS FOR THE PURPOSES SPECIFIED; REAPPROPRIATING CERTAIN UNEXPENDED BALANCES TO THE DIVISION OF PUBLIC WORKS; 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 $1,000,000 from the General Fund to the Permanent Building Fund.

SECTION 2. There is hereby appropriated and the State Controller is directed to transfer the amount of $200,000 from the Public Building Fund to the Permanent Building Fund.

SECTION 3. There is hereby appropriated from the Permanent Building Fund to the Division of Public Works the following amounts, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair, of buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, including those listed in this section. The Permanent Building

Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building 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 IN THE FOLLOWING AREAS:	$11,621,000
(1) Alterations and Repairs	
(2) Asbestos Abatement	
(3) Underground Storage Tank Program	
(4) Statewide ADA Compliance	
(5) Capitol Mall Maintenance	
(6) Building Demolition	
B. DEPARTMENT OF CORRECTION:	
(1) Pocatello Women's Correctional Center - Additional Funds	$ 260,000
(2) SICI Kitchen and Dining Room Enlargement	623,000
TOTAL	$ 883,000
C. STATE BOARD OF EDUCATION:	
(1) University of Idaho - Agricultural Biotechnology Facilities Project	$ 1,000,000
(2) Idaho State University - Physical Science Laboratory and Classroom Facility - Phase II Planning	100,000
(3) Idaho State Historical Society - Historical Library and Archives Building	3,000,000
TOTAL	$ 4,100,000
GRAND TOTAL	$16,604,000

SECTION 4. There is hereby reappropriated from the Permanent Building Fund to the Division of Public Works the unexpended balance of moneys remaining from the appropriations made for the following projects:

(1) Homedale Armory: Section 1, Chapter 343, Laws of 1987.

(2) Emmett Armory: Section 1, Chapter 337, Laws of 1990.

(3) Department of Correction Training Facility: Section 1, Chapter 200, Laws of 1994.

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 20, 1996.

CHAPTER 413
(H.B. No. 778)

AN ACT

RELATING TO SPECIAL LICENSE PLATES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-418, IDAHO CODE, TO PROVIDE FOR THE ESTABLISHMENT OF AN IDAHO VETERANS LICENSE PLATE PROGRAM, TO ESTABLISH FEES AND CRITERIA FOR THE PURCHASE OF VETERANS LICENSE PLATES AND TO ESTABLISH DESIGN REQUIREMENTS FOR THE PLATES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-418, Idaho Code, and to read as follows:

49-418. VETERANS PLATES. (1) On and after January 1, 1997, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, may apply for and upon department approval receive special veterans license plates in lieu of regular license plates. Availability of veterans plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) Proof of being a current or former member of the United States armed forces must be furnished to the department before special veterans plates will be issued. Acceptable proof shall be a copy of form DD214 or an equivalent document or statement from the department of veterans affairs.

(3) In addition to the regular registration fee required in sec-

tion 49-402(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee specified in section 49-402(8), Idaho Code, and the plate fee specified in section 49-450, Idaho Code.

(4) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(5) The veterans license plate design shall include the colors red, white and blue, shall designate one (1) of the five (5) branches of military service, and display either:

(a) The word "VETERAN" or

(b) The name of a conflict or war period recognized by the United States department of veterans affairs for the purpose of awarding federal veterans benefits as defined in 38 U.S.C. 101(11).

The license plate design shall comply with all applicable rules of the department, and shall include a separate and distinct numbering system. The design, color, and numbering system shall be subject to approval of the department.

SECTION 2. This act shall be in full force and effect on and after January 1, 1997.

Approved March 20, 1996.

CHAPTER 414
(H.B. No. 862)

AN ACT

RELATING TO THE ENVIRONMENTAL AUDIT ACT; AMENDING SECTION 9-803, IDAHO CODE, TO FURTHER DEFINE THE TERM PERSON; AMENDING SECTION 9-804, IDAHO CODE, TO PROVIDE THAT A STATE OF IDAHO PUBLIC OFFICIAL, EMPLOYEE OR ENVIRONMENTAL AGENCY MAY REQUIRE TO BE DISCLOSED AN ENVIRONMENTAL AUDIT PREPARED BY OR ON BEHALF OF A GOVERNMENTAL ENTITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 9-803, Idaho Code, be, and the same is hereby amended to read as follows:

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 pur-

suant 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~~ local governmental entity, 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, but does not include any state or federal governmental entity or its contractors and/or subcontractors in the performance, operation or management of governmental activities, programs, functions, facilities or sites.

(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 evidence 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.

SECTION 2. That Section 9-804, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ any governmental entity.

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, 1996.

CHAPTER 415
(H.B. No. 660)

AN ACT

RELATING TO THE WORKFORCE DEVELOPMENT TRAINING FUND; AMENDING SECTION 72-1319B, IDAHO CODE, TO EXPAND THE DEFINITION OF THE TERM "TAXABLE WAGE RATE"; AMENDING SECTION 72-1347A, IDAHO CODE, TO REDUCE RESERVE TAX RATES BY AN AMOUNT EQUAL TO THE TRAINING TAX RATE; AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1347B, IDAHO CODE, TO ESTABLISH THE WORKFORCE DEVELOPMENT TRAINING FUND; AMENDING SECTION 72-1350, IDAHO CODE, TO REDUCE UNEMPLOYMENT INSURANCE CONTRIBUTION RATES BY AN AMOUNT EQUAL TO THE TRAINING TAX RATE FOR THOSE CALENDAR YEARS A RESERVE TAX IS NOT IMPOSED; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 72-1319B, Idaho Code, be, and the same is hereby amended to read as follows:

72-1319B. TAXABLE WAGE RATE. The term "taxable wage rate" means the numerical values provided in subsection 72-1350(g), Idaho Code, for the purpose of establishing contribution <u>rates, training tax rates</u> and reserve tax rates for covered employers.

SECTION 2. That Section 72-1347A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1347A. EMPLOYMENT SECURITY RESERVE FUND -- SPECIAL ADMINISTRATION FUND. (a) There is hereby established in the state treasury a special trust fund, separate and apart from all other public moneys or funds of this state, to be known as the employment security reserve fund, hereinafter "reserve fund." Except as provided herein, all proceeds from the reserve tax defined in subsection (b) of this section shall be paid into the reserve fund and shall be mingled and undivided. The moneys in the reserve fund may be used by the director for loans to the employment security fund, section 72-1346, Idaho Code, as security for loans from the federal unemployment insurance trust fund, and for the repayment of any interest bearing advances, including interest, made under title XII of the social security act, 42 USC 1321 through 1324, and shall be continuously available to the director for expenditure in accordance with the provisions of this section. The state treasurer shall be the ex officio treasurer and custodian of the reserve fund and shall invest said moneys in accordance with existing

law and rules promulgated pursuant thereto. The state treasurer shall disburse the moneys from the reserve fund in accordance with the directions of the director.

(b) Effective January 1, 1991, a reserve tax shall be and is hereby imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code. The reserve tax shall be due and payable at the same time and in the same manner as contributions. For calendar year 1991 and each year thereafter if the reserve fund is less than one percent (1%) of state taxable wages in the penultimate year as of December 31 of the preceding calendar year, the reserve tax rate for all eligible, standard-rated and deficit employers shall be equal to the taxable wage rate then in effect less the assigned contribution rate and training tax rate. The terms and conditions of the provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the reserve tax imposed by this subsection, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section and the collection of the reserve tax created in this subsection, the director is granted all rights, authority, and prerogatives granted the director under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions and reserve taxes shall first be applied to pay any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to pay delinquent contributions to the employment security fund, section 72-1346, Idaho Code, and delinquent reserve taxes to the reserve fund pursuant to this section. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this subsection shall be paid out of that same fund. Reserve taxes paid pursuant to this subsection may not be deducted in whole or in part by any employer from the wages of individuals in its employ. All reserve taxes collected pursuant to this subsection shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the reserve fund established in subsection (a) of this section. Except as to reserve taxes unpaid on the date on which they are due and payable, no reserve taxes shall be collected or paid into the reserve fund during a calendar year if, as of December 31 of the preceding calendar year, the balance of the reserve fund equals or exceeds one percent (1%) of the state taxable wages for the penultimate calendar year, or exceeds forty-nine percent (49%) of the actual balance of the employment security fund, section 72-1346, Idaho Code.

(c) The interest earned from investment of the reserve fund moneys shall be deposited in a fund hereby established in the state treasurer's office, to be known as the department of employment special administration fund, hereinafter "special administration fund." The moneys in the special administration fund shall be held separate and apart from all other public moneys or funds of this state and shall be mingled and undivided. The state treasurer shall be the ex

officio treasurer and custodian of this fund and may invest said moneys in accordance with existing law and rules promulgated pursuant thereto. Any interest earned on said moneys shall be deposited in the special administration fund. In the absence of a specific appropriation, the moneys in the special administration fund are hereby perpetually appropriated to the director and may be expended with the approval of the advisory council appointed pursuant to section 72-1336, Idaho Code, for costs related to employment service programs and unemployment insurance programs administered under the employment security law. The director shall report annually to the joint finance-appropriations committee and the advisory council the expenditures and disbursements made from the fund during the preceding fiscal year, and the expenditures and disbursements and/or commitments made during the current fiscal year to date.

(d) Administrative costs for the collection of the reserve tax defined in subsection (b) of this section, and any penalties or interest thereon, shall be paid from federal administrative grants received under title III of the social security act, as amended, to the extent permitted by federal law, and then from the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, until such time as the special administration fund established in subsection (c) of this section, has sufficient moneys to cover such administrative costs but in any event, no later than July 1, 1992. After July 1, 1992, such administrative costs shall be paid from federal administrative grants received under title III of the social security act, as amended, to the extent permitted by federal law, and then from the special administration fund.

SECTION 3. That Chapter 13, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-1347B, Idaho Code, and to read as follows:

72-1347B. WORKFORCE DEVELOPMENT TRAINING FUND. (a) There is hereby established in the state treasury a special trust fund, separate and apart from all other public moneys or funds of this state, to be known as the workforce development training fund, hereinafter "training fund." Except as provided herein, all proceeds from the training tax defined in subsection (d) of this section shall be paid into the training fund and shall be mingled and undivided. The state treasurer shall be the custodian of the training fund and shall invest said moneys in accordance with law. Any interest earned on the moneys in the training fund shall be deposited in the training fund. Moneys in the training fund shall be disbursed in accordance with the directions of the director.

(b) All moneys in the training fund are hereby perpetually appropriated and made available to the director for expenditure in accordance with the provisions of this section. The purpose of the training fund established by this section is to provide or expand training and retraining opportunities in an expeditious manner that would not otherwise exist for Idaho's workforce. The training fund is intended to supplement, but not to supplant or compete with, money available through existing training programs. The moneys in the training fund

shall be used for the following purposes:

(1) To provide training for skills necessary for specific economic opportunities and industrial expansion initiatives;

(2) To provide training to upgrade the skills of currently employed workers at risk of being permanently laid off;

(3) For refunds of training taxes erroneously collected and deposited in the workforce training fund;

(4) For all administrative expenses incurred by the department associated with the collection of the training tax and any other administrative expenses associated with the training fund.

(c) Expenditures from the training fund for purposes authorized in paragraphs (1) and (2) of subsection (b) of this section shall be approved by the director of the department of employment and the director of the department of commerce based on procedures, criteria and performance measures established by a council appointed by the governor, or an existing council designated by the governor, hereinafter "council." The activities funded by the training fund will be coordinated with similar activities funded by the state division of vocational education. Expenditures from the training fund for purposes authorized in paragraphs (3) and (4) of subsection (b) of this section shall be approved by the director. The director shall pay all approved expenditures as long as the training fund has a positive balance. The council shall report annually to the governor and the joint finance-appropriations committee the commitments and expenditures made from the training fund in the preceding fiscal year and the results of the activities funded by the training fund.

(d) Effective January 1, 1996, and each calendar year thereafter, a training tax is hereby imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code, with the exception of deficit employers who have been assigned a taxable wage rate from rate class six pursuant to section 72-1350, Idaho Code. The training tax rate shall be equal to three percent (3%) of the taxable wage rate then in effect for each eligible, standard-rated and deficit employer. The training tax shall be due and payable at the same time and in the same manner as contributions. This subsection is repealed effective January 1, 2002, unless, prior to that date, the Idaho legislature approves the continuation of this subsection by repeal of this sunset clause.

(e) The provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the training tax imposed by subsection (d) of this section, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section the director is granted all rights, authority, and prerogatives granted the director under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions, reserve taxes and the training tax shall first be applied to pay any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to pay delinquent contributions to the employment security fund, section 72-1346, Idaho Code, delinquent reserve taxes to the reserve fund, section 72-1347A, Idaho Code, and delinquent training taxes to the training fund established in this

section. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this subsection shall be paid out of that same fund. Training taxes paid pursuant to this section shall not be credited to the employer's experience rating account and may not be deducted in whole or in part by any employer from the wages of individuals in its employ. All training taxes shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the training fund established in subsection (a) of this section.

(f) Administrative expenditures for the collection of the training tax defined in subsection (d) of this section and the maintenance of the training fund, and any penalties or interest thereon, shall be paid from the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, until such time as the training fund established in subsection (a) of this section has sufficient moneys to cover such administrative costs. At that time, such administrative costs shall be paid from the training fund in accordance with subsection (c) of this section and all moneys previously paid from the employment security administrative and reimbursement fund, section 72-1348, Idaho Code, for the administration of the training fund shall be reimbursed.

SECTION 4. That Section 72-1350, Idaho Code, be, and the same is hereby amended to read as follows:

72-1350. TAXABLE WAGE BASE AND TAXABLE WAGE RATES. (a) All remuneration for personal services as defined in section 72-1328, Idaho Code, equal to the average annual wage in covered employment for the penultimate calendar year, rounded to the nearest multiple of six hundred dollars ($600), or the amount of taxable wage base specified in the federal unemployment tax act, whichever is higher, shall be the taxable wage base for purposes of this act.

(b) All covered employers, except those eligible and electing the cost reimbursement payment method, shall be assigned taxable wage rates annually by the director in accordance with the following.

(c) A desired employment security fund size shall be determined for each calendar year by calculating from the penultimate year, the ten (10) year average of annual benefits paid to wages covered, multiplied by one and one-half (1.5). The resulting ratio, when applied to the covered wages of the penultimate year, represents the desired fund size. This calculation is hereafter referred to as the average cost multiple (ACM).

(d) Beginning in calendar year 1989 and effective each calendar year thereafter, the ACM becomes the ratio at the top of taxable wage rate schedule V as provided in subsection (g) of this section, and all other ratios for schedules I through IX are adjusted up or down from schedule V in equal increments of .005.

(e) The taxable wage rate schedule for each calendar year shall be determined by comparing the ratio of the actual balance of the employment security fund, section 72-1346, Idaho Code, and the reserve

fund, section 72-1347A, Idaho Code, on September 30, to the wages covered in the penultimate year against the taxable wage schedule ratios as provided in subsection (d) of this section.

(f) The ratios computed for each taxable wage rate schedule as provided in subsection (d) of this section shall be placed with their appropriate schedule at the top of the columns as provided in subsection (g) of this section, and shall represent the minimum fund level required for the specific schedule to be in effect.

(g) Schedules of Taxable Wage Rates

			SCHED. I	SCHED. II	SCHED. III	SCHED. IV	SCHED. V	SCHED. VI	SCHED. VII	SCHED. VIII	SCHED. IX
Cumulative Taxable Payroll Limits			+.020	+.015	+.010	+.005	ACM	-.005	-.010	-.015	
Rate Class	More Than (% of Total Taxable Payroll)	Equal to or Less Than (% of Total Taxable Payroll)	Taxable Wage Rates for Eligible Employers								
1	--	10	0.1%	0.5%	0.9%	1.3%	1.5%	1.7%	2.1%	2.5%	2.9%
2	10	22	0.4	0.8	1.2	1.6	1.8	2.0	2.4	2.8	3.2
3	22	37	0.7	1.1	1.5	1.9	2.1	2.3	2.7	3.1	3.5
4	37	52	1.0	1.4	1.8	2.2	2.4	2.6	3.0	3.4	3.8
5	52	67	1.3	1.7	2.1	2.5	2.7	2.9	3.3	3.7	4.1
6	67	82	1.6	2.0	2.4	2.8	3.0	3.2	3.6	4.0	4.4
7	82	--	1.9	2.3	2.7	3.1	3.3	3.5	3.9	4.3	4.7
Taxable Wage Rates for Standard-Rated Employers:			2.1%	2.5%	2.9%	3.3%	3.5%	3.7%	4.1%	4.5%	4.9%
Cumulative Taxable Payroll Limits											
Rate Class	More Than (% of Total Taxable Payroll)	Equal to or Less Than (% of Total Taxable Payroll)	Taxable Wage Rates for Deficit Employers								
1	--	20	2.4	2.8	3.2	3.6	3.8	4.0	4.4	4.8	5.2
2	20	40	2.8	3.2	3.6	4.0	4.2	4.4	4.8	5.2	5.6
3	40	60	3.2	3.6	4.0	4.4	4.6	4.8	5.2	5.6	6.0
4	60	80	3.6	4.0	4.4	4.8	5.0	5.2	5.6	6.0	6.4
5	80	99	4.0	4.4	4.8	5.2	5.4	5.6	6.0	6.4	6.8
6	99	--	5.4	5.4	5.4	5.4	5.4	5.6	6.0	6.4	6.8

(h) Each e~~E~~mployer~~s~~ will be assigned ~~contribution-rates-equal-to the~~ a taxable wage rate~~s-provided-in-each~~ from the effective taxable wage rate schedule for eligible, standard-rated and deficit employers, based upon ~~their~~ the employer's experience as determined under the provisions of sections 72-1319, 72-1319A, 72-1319B and 72-1351, Idaho Code. ~~Provided,-however,-that-for-calendar-year-1991-and-each-calendar year--thereafter,--if--a--reserve--tax--is-imposed-pursuant-to-section 72-1347A,-Idaho-Code,-the-contribution-rates-for-all--employers,--with the--exception-of-any-deficit-employer-who-has-been-assigned-a-taxable wage-rate-from-rate-class-six--pursuant--to--this--section,--shall--be eighty-percent-(80%)-of-the-taxable-wage-rates-then-in-effect.~~

(1) Deficit employers who have been assigned a taxable wage rate from rate class six will be assigned contribution rates equal to their taxable wage rate.

(2) All other eligible, standard-rated and deficit employers will be assigned contribution rates equal to ninety-seven percent (97%) of their taxable wage rate. Provided however, that for each calendar year a reserve tax is imposed pursuant to section 72-1347A, Idaho Code, the contribution rates for employers assigned contribution rates pursuant to this paragraph shall be eighty percent (80%) of their taxable wage rate.

(i) Each employer shall be notified of his taxable wage rate as determined for any calendar year pursuant to this section and section 72-1351, Idaho Code. Such determination shall become conclusive and binding upon the employer, unless within fourteen (14) days after delivery or mailing of the notice thereof to his last known address, the employer files an application for redetermination, setting forth his reasons therefor. Reconsideration shall be limited to transactions occurring subsequent to any previous determination which has become final. The employer shall be promptly notified of the redetermination, which shall become final unless an appeal is filed within fourteen (14) days after delivery or mailing of notice to his last known address. Proceedings on the appeal shall be in accordance with the provisions of section 72-1361, Idaho Code.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 1996.

Approved March 20, 1996.

CHAPTER 416
(S.B. No. 1443)

AN ACT

RELATING TO CRIME VICTIM'S COMPENSATION; AMENDING SECTION 72-1003, IDAHO CODE, TO PROVIDE THAT WELFARE BENEFITS WHICH DO NOT CONSTITUTE A COLLATERAL SOURCE SHALL INCLUDE SUMS PAYABLE TO OR ON BEHALF OF AN INDIGENT PERSON UNDER CHAPTER 35, TITLE 31, IDAHO CODE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 72-1003, Idaho Code, be, and the same is hereby amended to read as follows:

72-1003. DEFINITIONS. As used in this chapter:

(1) "Claimant" means any of the following claiming compensation under this chapter:

(a) A victim;

(b) A dependent of a deceased victim; or

(c) An authorized person acting on behalf of any of them, including parent(s), legal guardian(s), and sibling(s), of a victim who is a minor.

(2) "Collateral source" means a source of benefits, other than welfare benefits, or advantages for economic loss otherwise compensable under this chapter which the claimant has received or which is readily available to him from:

(a) The offender;

(b) The government of the United States or any agency thereof, a state or any of its political subdivisions, or an instrumentality of two (2) or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under this chapter;

(c) Social security, medicare, and medicaid;

(d) ~~Workers'~~ Worker's compensation;

(e) Wage continuation programs of any employer;

(f) Proceeds of a contract of insurance payable to the claimant for loss which was sustained because of the criminally injurious conduct; or

(g) A contract, including an insurance contract, providing hospital and other health care services or benefits for disability. Any such contract in this state may not provide that benefits under this chapter shall be a substitute for benefits under the contract or that the contract is a secondary source of benefits and benefits under this chapter are a primary source.

(3) "Commission" means the industrial commission.

(4) "Criminally injurious conduct" means intentional, knowing, or reckless conduct that:

(a) Occurs or is attempted in this state or occurs outside the state of Idaho against a resident of the state of Idaho and which occurred in a state which does not have a crime victims compensation program for which the victim is eligible as eligibility is set forth in this statute;

(b) Results in injury or death; and

(c) Is punishable by fine, imprisonment, or death or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle except when intended to cause personal injury or death; provided that criminally injurious conduct shall include violations of the provisions of sections 18-4006 3(b), 18-8004, 18-8007, 67-7034 or 67-7035, Idaho Code.

(5) "Dependent" means a natural person who is recognized under the law of this state to be wholly or partially dependent upon the victim for care or support and includes a child if under the age of eighteen (18) or incapable of self-support and unmarried and includes a child of the victim conceived before the victim's death but born after the victim's death, including a child that is conceived as a result of the criminally injurious conduct.

(6) "Injury" means actual bodily harm or disfigurement and, with respect to a victim, includes pregnancy, venereal disease, mental or nervous shock, or extreme mental distress. For the purposes of this chapter, "extreme mental distress" means a substantial personal disorder of emotional processes, thought or cognition which impairs judgment, behavior or ability to cope with the ordinary demands of life.

(7) "Victim" means a person who suffers injury or death as a result of:

(a) Criminally injurious conduct;

(b) His good faith effort to prevent criminally injurious conduct; or

(c) His good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

(8) "Welfare benefits" as used in subsection (2) of this section, shall include sums payable to or on behalf of an indigent person under chapter 35, title 31, Idaho Code.

Approved March 20, 1996.

CHAPTER 417
(S.B. No. 1528)

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE; AMENDING SECTION 18-8010, IDAHO CODE, TO PROVIDE THAT MONEYS IN EACH COUNTY'S COURT INTERLOCK DEVICE AND ELECTRONIC MONITORING DEVICE FUND MAY BE UTILIZED FOR OTHER PROBATION PROGRAMS FOR PERSONS COMMITTING MISDEMEANOR VIOLATIONS OF DRIVING UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR OTHER INTOXICATING SUBSTANCES.

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

SECTION 1. That Section 18-8010, Idaho Code, be, and the same is hereby amended to read as follows:

18-8010. SURCHARGE ADDED TO ALL FINES. Every person who is convicted, found guilty, pleads guilty or receives a withheld judgment for violating the provisions of this chapter shall be required to pay an additional fifteen dollars ($15.00) in addition to any other fine, penalty or costs the court may assess. Moneys received pursuant to this section shall be remitted to the county treasurer in the county where the person was adjudicated for deposit in the "court interlock device and electronic monitoring device fund" which is hereby created in each county. Moneys in this fund may be utilized for the purchase

of ignition interlock devices and electronic monitoring devices required pursuant to section 18-8008, Idaho Code. Additionally, any moneys a court charges a defendant for using an ignition interlock device or electronic monitoring devices shall be placed in this fund. The court may also utilize moneys in this fund to assist an indigent defendant to procure an ignition interlock device or electronic monitoring devices. The court may also utilize moneys in this fund for other probation programs for persons who plead guilty to or are found guilty of misdemeanor violations of driving under the influence of alcohol, drugs or other intoxicating substances, pursuant to section 18-8004(1)(a), Idaho Code.

Approved March 20, 1996.

CHAPTER 418
(S.B. No. 1527)

AN ACT

RELATING TO CRIMINAL SENTENCING; AMENDING SECTION 19-2601, IDAHO CODE, TO PROVIDE THAT THE COURT MAY RETAIN JURISDICTION OVER A JUVENILE SENTENCED TO THE CUSTODY OF THE STATE BOARD OF CORRECTION UNTIL THE JUVENILE REACHES 21 YEARS OF AGE.

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~~ juvenile corrections 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 eighty (180) days of a sentence to the custody of the state board of correction. The court shall retain jurisdiction over the prisoner for the first one hundred eighty (180) days or, if the prisoner is a juvenile, until the juvenile reaches twenty-one (21) years of age. 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.

Approved March 20, 1996.

CHAPTER 419
(S.B. No. 1545)

AN ACT

RELATING TO THE SITING OF COMMERCIAL SOLID WASTE FACILITIES; AMENDING SECTION 39-7403, IDAHO CODE, TO PROVIDE A DEFINITION OF COMMERCIAL SOLID WASTE FACILITY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 74, TITLE 39, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 39-7408A, 39-7408B, 39-7408C AND 39-7408D, IDAHO CODE, TO PROVIDE A SITE CERTIFICATION PROCEDURE FOR COMMERCIAL SOLID WASTE FACILITIES, TO PROVIDE FOR THE ISSUANCE OF LICENSES, TO PROVIDE FOR EXPANSION OR ENLARGEMENT OF COMMERCIAL SOLID WASTE FACILITIES, TO PROVIDE FOR SITE REVIEW PANELS, TO PROVIDE REQUIREMENTS FOR A SITING LICENSE APPLICATION, AND TO PROVIDE DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE UPON RECEIPT OF A SITING LICENSE APPLICATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-7403, Idaho Code, be, and the same is hereby amended to read as follows:

39-7403. DEFINITIONS. As used in this chapter:

(1) "Active portion" means that part of a facility or unit that has received or is receiving wastes and that has not been closed in accordance with 40 CFR 258.60.

(2) "Agricultural wastes" means wastes generated on farms resulting from the production of agricultural products including, but not limited to, manures and carcasses of dead animals weighing each or collectively in excess of fifteen (15) pounds but do not include wastes that are classified as hazardous.

(3) "Applicant" means the owner or the operator with the owner's written consent.

(4) "Aquifer" means a geological formation, group of formations, or a portion of a formation capable of yielding significant quantities of ground water to wells or springs.

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

(6) "Buffer zone" means that part of a facility that lies between the active portion and the property boundary.

(7) "Clean soils and clean dredge spoils" means soils and dredge spoils which are not hazardous wastes or problem wastes as defined in this section.

(8) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses and other nonmanufacturing activities, excluding residential and industrial wastes.

(9) "Commercial solid waste facility" means a facility owned and operated as an enterprise conducted with the intent of making a profit by any individual, association, firm, or partnership for the disposal of solid waste, but excludes a facility owned or operated by a political subdivision, state or federal agency, municipality or a facility owned or operated by any individual, association, firm or partnership exclusively for the disposal of solid waste generated by such individual, association, firm or partnership.

(10) "Construction/demolition waste" means the waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures. Such waste includes, but is not limited to, bricks, concrete, other masonry materials, soil, rock, lumber, road spoils, rebar, paving materials and tree stumps. Noninert wastes and asbestos wastes are not considered to be demolition waste for the purposes of this chapter.

(~~10~~11) "Contaminate" means to allow discharge of a substance from a landfill that would cause:

(a) The concentration of that substance in the ground water to exceed the maximum contamination level (MCL) specified in 40 CFR 258.40, Idaho drinking water standards; or

(b) A statistically significant increase in the concentration of that substance in the ground water where the existing concentration of that substance exceeds the maximum contamination level specified in paragraph (a) of this subsection; or

(c) A statistically significant increase above background in the

concentration of a substance which:

(i) is not specified in paragraph (a) of this subsection; and

(ii) is a result of the disposal of solid waste; and

(iii) has been determined by the department to present a substantial risk to human health or the environment in the concentrations found at the point of compliance.

(1~~1~~2) "County" means any county in the state of Idaho.

(1~~2~~3) "Cover material" means soil or other suitable material that is used to protect the active portion of the MSWLF unit.

(1~~3~~4) "Director" means the director of the Idaho department of health and welfare.

(1~~4~~5) "Existing MSWLF unit" means any municipal solid waste landfill unit that is receiving solid waste as of the applicable date specified in 40 CFR 258.1(e).

(1~~5~~6) "Facility" means all contiguous land and structures, buffer zones, and other appurtenances and improvements on the land used for the disposal of solid waste.

(1~~6~~7) "Floodplain" means the area encompassed by the one hundred (100) year flood as defined by applicable federal emergency management agency (FEMA) flood insurance maps or, if no map exists, then as defined in 40 CFR 258.11.

(1~~7~~8) "Ground water" means water below the land surface in a zone of saturation.

(1~~8~~9) "Health district" means one (1) of the seven (7) district health departments of the state of Idaho.

(~~19~~20) "Holocene fault" means a fault characterized as a fracture or a zone of fractures in any material along which strata on one (1) side have been displaced with respect to that on the other side and holocene being the most recent epoch of the quaternary period, extending from the end of the pleistocene epoch to the present.

(2~~0~~1) "Household waste" means any solid waste, including garbage, trash and sanitary waste in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas.

(2~~1~~2) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under subtitle C of RCRA. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer and agricultural chemicals; food and related products and by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(2~~2~~3) "Inert wastes" means noncombustible, nonhazardous, nonputresible, nonleaching solid wastes that are likely to retain their physical and chemical structure under expected conditions of disposal, including resistance to biological attack.

(2~~3~~4) "Landfill" means an area of land or an excavation in which

wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well or waste pile.

(~~24~~5) "Landspreading disposal facility" or "land application unit" means a facility that applies sludges or other solid wastes onto or incorporates solid waste into the soil surface, excluding manure spreading operations, at greater than agronomic rates and soil conditioners and immobilization rates.

(~~25~~6) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing MSWLF unit.

(~~26~~7) "Leachate" means a liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials removed from such waste.

(~~27~~8) "Limited purpose landfill" means a landfill that receives solid waste of limited type with known and consistent composition other than wood wastes, municipal solid waste, inert waste and construction/demolition waste.

(~~28~~9) "Liquid waste" as defined in 40 CFR 258.28(c)(1).

(~~29~~30) "Monofill" means a landfill which contains a specific waste whose waste stream characteristics remain unchanged over time and may include special wastes, problem wastes or other consistent characteristic wastes but do not include wastes regulated under any other applicable regulations.

(~~30~~1) "Municipal solid waste landfill unit (MSWLF)" means a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR 257.2. A MSWLF unit also may receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion.

(~~31~~2) "New MSWLF unit" means any municipal solid waste landfill unit that has not received waste prior to October 9, 1993, or prior to October 9, 1995, if the MSWLF unit meets the conditions specified in 40 CFR 258.1(f)(1).

(~~32~~3) "Open burning" means the combustion of solid waste without: (a) control of combustion air to maintain adequate temperature for efficient combustion; (b) containment of the combustion reaction in an enclosed device to provide sufficient resident time and mixing for complete combustion; and (c) control of the emission of the combustion products.

(~~33~~4) "Operator" means the person(s) responsible for the overall operation of a facility or part of a facility.

(~~34~~5) "Owner" means the person(s) who owns a facility or part of a facility.

(~~35~~6) "Permeability" means the capacity of a material to transmit a liquid. For the purposes of this chapter permeability is expressed in terms of hydraulic conductivity of water in centimeters-per-second units of measurement.

(~~36~~7) "Person" means an individual, association, firm, partnership, political subdivision, public or private corporation, state or federal agency, municipality, industry, or any other legal entity whatsoever.

(~~37~~8) "Pile" or "waste pile" means any noncontainerized solid, nonflowing waste that is accumulated for treatment or storage.

(~~38~~9) "Plan of operation" means the written plan developed by an owner or operator of a MSWLF unit detailing how the facility is to be operated during its active life, during closure, and throughout the post closure period.

(~~39~~40) "Point of compliance" means a vertical surface located at the hydraulically downgradient intercept with the uppermost aquifer at which a release from a waste management unit measured as change in constituent values will trigger assessment monitoring. Point of compliance shall be used to define the facility design, location and frequency of ground water monitoring wells and corrective action.

(~~40~~1) "Post closure" means the requirements placed upon the MSWLF unit after closure to ensure their environmental safety for a thirty (30) year period or until the site becomes stabilized in accordance with section 39-7416, Idaho Code.

(~~41~~2) "Processing" means an operation conducted on solid waste to prepare it for disposal.

(~~42~~3) "Qualified professional" means a licensed professional geologist or licensed professional engineer, as appropriate, holding current professional registration in compliance with applicable provisions of the Idaho Code.

(~~43~~4) "RCRA" means the resource conservation and recovery act (42 U.S.C. sec. 6901 et seq.), as amended.

(~~44~~5) "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

(~~45~~6) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

(~~46~~7) "Saturated zone" means that part of the earth's crust in which all voids are filled with water.

(~~47~~8) "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system.

(~~48~~9) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial waste water treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a waste water treatment plant.

(~~49~~50) "Solid waste" means any garbage or refuse, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. 1342, or source, special nuclear, or by-product material as defined in the atomic energy act of 1954, as amended (68 Stat. 923). These regulations shall not apply to the following solid wastes:

(a) Overburden, waste dumps and low grade stockpiles from mining operations;

(b) Liquid wastes whose discharge or potential discharge is regulated under federal, state or local water pollution permits;

(c) Hazardous wastes as designated in the hazardous waste management act, chapter 44, title 39, Idaho Code;
(d) Wood waste used for ornamental, animal bedding, mulch and plant bedding and road building purposes;
(e) Agricultural wastes, limited to manures and crop residues, returned to the soils at agronomic rates;
(f) Clean soils and clean dredge spoils as otherwise regulated under section 404 of the federal clean water act (PL 95-217);
(g) Septage taken to a sewage treatment plant permitted by either the U.S. environmental protection agency or the department;
(h) Radioactive wastes, defined in the radiation and nuclear materials act, chapter 30, title 39, Idaho Code; and
(i) Wood debris resulting from the harvesting of timber and the disposal of which is permitted under chapter 1, title 38, Idaho Code.

(~~50~~1) "Special waste" means those wastes which require special treatment or handling after it arrives at the disposal site. The term includes, but is not limited to, asbestos containing material, petroleum contaminated soils, low-level PCB containing material, low-level dioxin containing material and uncut tires.

(~~51~~2) "Statistically significant" means significant as determined by ANOVA analysis of variance as applied within 40 CFR 258.53(h)(2) or as provided by 40 CFR 258.53(g)(5).

(~~52~~3 "Uppermost aquifer" means the geological formation nearest the natural ground surface that is an aquifer as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

(~~53~~4) "Waste management unit boundary" means a vertical surface located at the hydraulically downgradient limit of the unit. This vertical surface extends down into the uppermost aquifer.

(~~54~~5) "Water quality standard" means a standard set for maximum allowable contamination in surface waters and ground water as set forth in the water quality standards for waters for the state of Idaho (IDAPA 16.01.2001).

(~~55~~6) "Wetlands" as defined in 40 CFR 232.2(r).

(~~56~~7) "Wood waste" means solid waste consisting of wood pieces or particles generated as a by-product or waste from the manufacturing of wood products, handling and storage of raw materials and trees and stumps. This includes, but is not limited to, sawdust, chips, shavings, bark, pulp, hog fuel and log yard waste, but does not include wood pieces or particles containing chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

Undefined terms shall be given their usual and ordinary meaning within the context of the provisions of this chapter.

SECTION 2. That Chapter 74, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 39-7408A, 39-7408B, 39-7408C and 39-7408D, Idaho Code, and to read as follows:

39-7408A. SITE CERTIFICATION PROCEDURE FOR COMMERCIAL SOLID WASTE FACILITIES. In addition to obtaining site certification as provided in section 39-7408, Idaho Code, no owner or operator of a commercial

solid waste facility shall construct, expand or enlarge such a facility without a siting license from the director. Commercial solid waste facilities constructed and in operation on the effective date of this section are not required to obtain a siting license except to expand or enlarge such facilities.

39-7408B. SITE REVIEW PANELS -- MEMBERS, CHAIRMAN, QUORUM, MEETINGS, STAFF. (1) A site review panel shall be established to insure public input in the licensing process, to recommend to the director conditions which should be included in a siting license and to recommend to the director whether a particular facility should or should not be constructed, expanded or enlarged.

(2) A panel shall consist of eight (8) members to be appointed as follows:

(a) Three (3) members shall be the administrator of the division of environmental quality or his designee, the director of the Idaho transportation department or his designee and the director of the department of water resources or his designee.

(b) One (1) member shall be a public member appointed by the governor. The public member shall be an environmental professional, shall serve as chairman of the panel and shall be a voting member. A member who is a public member shall be appointed to serve on site review panels only until the particular siting license application subject to their review is approved, or until the application is rejected and is no longer subject to their review.

(c) Two (2) members shall be appointed by the city council of the city located closest to or in which the commercial solid waste facility is proposed to be located, at least one (1) of whom shall be a resident of the city. The members serving pursuant to this subsection shall serve until the particular siting license application subject to their review is approved, or until the application is rejected and is no longer subject to their review.

(d) Two (2) members shall be appointed by the county commission and be residents of the county where the commercial solid waste facility is proposed to be located. The members serving pursuant to this subsection shall serve until the particular siting license application subject to their review is approved, or until the application is rejected and is no longer subject to their review.

(e) A person nominated to represent a city or county shall not have a conflict of interest, as that term is defined in section 59-703, Idaho Code, or derive any economic gain as that term is defined in section 59-703, Idaho Code, from the location or siting of the proposed commercial solid waste facility.

(3) The director shall notify the city council of the nearest city and the board of county commissioners of a siting license application filed with the department, and shall instruct the city and county to appoint the necessary members to a panel.

(4) Five (5) of the eight (8) members of the panel shall constitute a quorum for the transaction of business of the panel and the concurrence of five (5) members of the panel shall constitute a legal action of the panel, provided that no meeting of the panel shall occur unless there are at least as many members present representing the city and county as there are representing the state and the public as

appointed pursuant to subsections (2)(a) and (b) of this section. All meetings of the panel shall be conducted pursuant to the state open meeting law.

(5) The director shall make staff available to assist a panel in carrying out its responsibilities.

(6) Members of the panel who are not state employees shall be entitled to receive compensation as provided in section 59-509(b), Idaho Code.

39-7408C. SITING LICENSE APPLICATION -- FEE -- RULES. (1) An application for a siting license shall include:

(a) The name and residence of the applicant;

(b) The location of the proposed commercial solid waste facility;

(c) Engineering, hydrogeologic and air quality information to indicate compliance with technical criteria as may be provided by law;

(d) A description of the types of wastes proposed to be handled at the facility;

(e) Information showing that harm to scenic, public health, historic, cultural or recreational values is not substantial or can be mitigated;

(f) Information showing that the risk and impact of accident during transportation of solid waste is not substantial or can be mitigated;

(g) Information showing that the impact on local government is not adverse regarding health, safety, cost and consistency with local planning and existing development or can be mitigated;

(h) Financial information to indicate the applicant's financial capability to construct, operate and close a commercial solid waste facility.

(2) Within thirty (30) days after receipt of the application, the director shall determine whether it is complete. If it is not complete, the director shall notify the applicant and state the areas of deficiency.

(3) The application shall be accompanied by a siting license fee. The director shall establish by rule the scale for determining the siting license application fee. The fee shall not exceed seven thousand five hundred dollars ($7,500) and shall be based on the cost to the department of reviewing the siting license application. The scale shall be based on characteristics including the site size, projected waste volume, and hydrogeological and atmospheric characteristics surrounding the site. Fees received pursuant to this section may be expended by the director to pay the actual, reasonable and necessary costs incurred by the department in acting upon a siting license application.

(4) The director shall promulgate rules in compliance with chapter 52, title 67, Idaho Code, to implement the provisions of this section.

39-7408D. DUTIES OF THE DIRECTOR RELATIVE TO SITING APPLICATIONS. (1) Upon receipt of a complete siting license application, the director or an authorized representative of the director shall:

(a) Notify the permanent panel members, the city and/or county in

which the commercial solid waste facility is located or proposed to be located, the director of the department of fish and game, the director of the department of law enforcement, and other state agencies as deemed appropriate by the director.

(b) Publish a notice that the application has been received, as provided in section 60-109, Idaho Code, in a newspaper having major circulation in the county and the immediate vicinity of the proposed commercial solid waste facility. The notice shall contain a map indicating the location of the proposed commercial solid waste facility, a description of the proposed action and the location where the application may be reviewed. The notice shall describe the procedure by which the siting license may be granted.

(2) Upon notification by the director, the chairman shall immediately notify the representatives of the state to the panel and the public members. The chairman shall also notify the applicable county and city for their appointment of members as provided in subsection (2) of section 39-7408B, Idaho Code. Within thirty (30) days after the notification, the board of commissioners of the county and the city council shall select the members to serve on the panel. The panel shall be created at that time and notification of the creation of the panel shall be made to the chairman.

(3) Within thirty (30) days after appointment of panel members, the panel shall meet to review and establish a timetable for the consideration of the draft site license.

(4) The panel shall:

(a) Set a date and arrange for publication of notice of a public hearing in a newspaper having major circulation in the vicinity of the proposed site, at its first meeting. The public notice shall:

(i) Contain a map indicating the location of the proposed commercial solid waste facility, a description of the proposed action, and the location where the application for a siting license may be reviewed and where copies may be obtained;

(ii) Identify the time, place and location for the public hearing held to receive public comment and input on the application for a siting license;

(b) Publish the notice not less than thirty (30) days before the date of the public hearing and the notice shall be, at a minimum, a twenty (20) days' notice as provided in section 60-109, Idaho Code.

(5) Comment and input on the proposed commercial solid waste facility may be presented orally or in writing at the public hearing, and shall continue to be accepted in writing by the panel for thirty (30) days after the public hearing date. The public hearing shall be held in the same county as the proposed site. If the proposed site is adjacent to a city or populated area in a neighboring county, it is recommended that public hearings also be held in the neighboring county.

(6) The panel shall consider, but not be limited to, the following:

(a) The risk of the spread of disease or impact upon public health from improper treatment, storage, or incineration methods;

(b) The impact on local units of government where the proposed

commercial solid waste facility is to be located in terms of health, safety, cost and consistency with local planning and existing development. The panel shall also consider city and county ordinances, permits or other requirements and their potential relationship to the proposed commercial solid waste facility;

(c) The nature of the probable environmental and public health impact;

(d) The financial capability of the applicant to construct, operate and close the commercial solid waste facility.

(7) The panel shall consider the concerns and objections submitted by the public. The panel shall facilitate efforts to provide that the concerns and objections are mitigated by proposing additional conditions regarding the construction of the commercial solid waste facility. The panel may propose conditions which integrate the provisions of the city or county ordinances, permits or requirements.

(8) Within one hundred eighty (180) days after creation, the panel shall recommend to the director that the license be issued, issued with conditions, or rejected. The director shall act on a license application within sixty (60) days after receipt of the panel's recommendation. If the panel recommends conditions, a clear statement of the need for a condition must be submitted to the director. If the panel recommends rejection, a clear statement of the reasons for the denial must be submitted to the director.

(9) The director shall issue, issue with conditions or reject a siting license only as recommended by the siting panel. The director may reconvene a siting panel and request reconsideration of its original recommendation prior to the director's final action.

(10) An applicant or any person aggrieved by a decision of the director pursuant to this chapter may within sixty (60) days of the director's decision, and, after all remedies have been exhausted under the provisions of this chapter, seek judicial review under the procedures provided in chapter 52, title 67, Idaho Code, and may also seek de novo judicial review.

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, 1996.

CHAPTER 420
(S.B. No. 1394, As Amended in the House)

AN ACT

RELATING TO CONDITIONS GOVERNING FILING ACTIONS; AMENDING CHAPTER 1, TITLE 11, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 11-108, IDAHO CODE, TO PROVIDE FOR EXECUTION OF CIVIL JUDGMENTS AGAINST PRISONERS; AMENDING SECTION 19-4902, IDAHO CODE, TO STRIKE A PROVISION GOVERNING FILING OF AN APPLICATION CONCERNING TREATMENT IN A CORRECTIONAL FACILITY; AMENDING CHAPTER 2, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-209E, IDAHO CODE, TO PROVIDE

FOR PRISON DISCIPLINARY ACTION FOR FRIVOLOUS OR MALICIOUS COURT PROCEEDINGS; AMENDING CHAPTER 6, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-628, IDAHO CODE, TO PROVIDE FOR JAIL DISCIPLINARY ACTION FOR FRIVOLOUS OR MALICIOUS COURT PROCEEDINGS; AMENDING SECTION 31-3212, IDAHO CODE, TO CLARIFY CONDITIONS GOVERNING EXCEPTIONS TO FEE SCHEDULES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-3220, IDAHO CODE, TO DEFINE TERMS AND TO PROVIDE FURTHER STANDARDS FOR DETERMINATION OF INDIGENCY; AND AMENDING CHAPTER 32, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3220A, IDAHO CODE, TO GOVERN CONDITIONS FOR PRISONER INABILITY TO PAY FEES AT THE TIME OF FILING OF AN ACTION AND TO PROVIDE FOR DISMISSAL OF ACTIONS.

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

SECTION 1. That Chapter 1, Title 11, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 11-108, Idaho Code, and to read as follows:

11-108. EXECUTION OF CIVIL JUDGMENTS AGAINST PRISONERS. (1) For purposes of this section, the county sheriffs and the department of correction are exempt from the requirements of title 8 and title 11, Idaho Code. However, nothing in this section shall prevent the county, county sheriffs or department of correction from pursuing formal execution of judgments through writs of execution under title 11, Idaho Code, or writs of attachment and possession under title 8, Idaho Code.

(2) Whenever a judgment is entered against a prisoner pursuant to section 12-120, 12-121 or 12-122, Idaho Code, the county, county sheriff or department of correction may collect the amount of the judgment from the prisoner by direct levy against the prisoner's inmate account and/or personal property in his possession at the county jail or state prison. In pursuit of such collection efforts, the following applies:

(a) The county, county sheriff or department of correction may continue to levy against the prisoner's inmate account and personal property as it becomes available until the amount of the judgment is fully satisfied;

(b) Funds collected from an inmate account shall be credited in full towards satisfaction of the judgment;

(c) A prisoner's personal property may be sold to the jail or prison commissary as used goods, with the value to be determined by the county sheriff or the department of correction, respectively.

(3) For purposes of this section, prisoners shall not be entitled to claim exempt property under sections 11-201 through 11-207, Idaho Code, or 11-601 through 11-608, Idaho Code, with respect to funds in their inmate accounts and personal property in their possession at a county jail or a state prison.

SECTION 2. That Section 19-4902, Idaho Code, be, and the same is hereby amended to read as follows:

19-4902. COMMENCEMENT OF PROCEEDINGS -- VERIFICATION -- FILING --

SERVICE. A proceeding is commenced by filing an application verified by the applicant with the clerk of the district court in which the conviction took place. ~~An application containing claims relating to the treatment of an applicant at any correctional facility located within Idaho may only be filed within the county in which such facility is located.~~ An application may be filed at any time within one (1) year from the expiration of the time for appeal or from the determination of an appeal or from the determination of a proceeding following an appeal, whichever is later. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The Supreme Court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the prosecuting attorney.

SECTION 3. That Chapter 2, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-209E, Idaho Code, and to read as follows:

20-209E. PRISON DISCIPLINARY ACTION FOR FRIVOLOUS OR MALICIOUS COURT PROCEEDINGS. (1) In any action, whether filed in state, federal or administrative court, in which a prisoner submits a frivolous or malicious claim, or knowingly testifies falsely or otherwise knowingly presents false evidence or information to the court, the prisoner may be subject to prison disciplinary action. Such disciplinary action may be initiated upon the court's finding that:

(a) The prisoner has filed a claim that is frivolous or malicious;

(b) The prisoner filed a claim solely to harass the party;

(c) The prisoner has knowingly testified falsely or otherwise knowingly submitted false evidence or information to the court; or

(d) The prisoner has committed a fraud upon the court.

(2) In the absence of a finding by the court under subsection (1) of this section, and upon review and recommendation by the office of the attorney general, a disciplinary hearing may be held by the appropriate authority at the prison, pursuant to section 5, article X of the constitution of the state of Idaho, to determine whether the prisoner has filed a claim that is malicious or intended solely to harass the party, or has testified falsely or otherwise presented false evidence or information to the court.

(3) Upon a finding of guilt under either subsection (1) or (2) of this section, the prisoner shall be subject to prison disciplinary detention and loss of privileges consistent with established prison disciplinary procedures.

SECTION 4. That Chapter 6, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-628, Idaho Code, and to read as follows:

20-628. JAIL DISCIPLINARY ACTION FOR FRIVOLOUS OR MALICIOUS COURT

PROCEEDINGS. (1) In any case, whether filed in state, federal or administrative court, in which a prisoner in a county jail submits a frivolous or malicious claim, or knowingly testifies falsely or otherwise knowingly presents false evidence or information to the court, the prisoner may be subject to jail disciplinary action. Such disciplinary action may be initiated upon the court's finding that:

(a) The prisoner has filed a claim that is frivolous or malicious;

(b) The prisoner filed a claim solely to harass the party;

(c) The prisoner has knowingly testified falsely or otherwise knowingly submitted false evidence or information to the court; or

(d) The prisoner has committed a fraud upon the court.

(2) In the absence of a finding by the court under subsection (1) of this section, and upon review and recommendation by the county prosecutor, or the attorney general, a disciplinary hearing may be held by the appropriate authority at the county jail, pursuant to chapter 6, title 20, Idaho Code, to determine whether the prisoner has filed a claim that is malicious or intended solely to harass the party, or has testified falsely or otherwise presented false evidence or information to the court.

(3) Upon a finding of guilt under either subsection (1) or (2) of this section, the prisoner shall be subject to jail disciplinary detention and loss of privileges consistent with established jail disciplinary procedures.

SECTION 5. That Section 31-3212, Idaho Code, be, and the same is hereby amended to read as follows:

31-3212. EXCEPTIONS TO FEE SCHEDULE -- HABEAS CORPUS -- STATE OR ANY COUNTY OF IDAHO A PARTY -- COST OF TRANSCRIPTS. (1) No filing or recording fee of any kind ~~must~~ shall be charged or received by any county officer mentioned in this chapter for duties performed or services rendered in proceedings in habeas corpus~~;-nor-shall-any~~, unless the habeas corpus petitioner is a prisoner as defined in section 31-3220A, Idaho Code.

(2) ~~C~~county officers shall not charge any fee against, or receive any compensation whatever from, the state or any county of Idaho for any services rendered in any action or proceeding in which the state of Idaho, or any state board, or state officer in his official capacity, or any county of Idaho, or county officer in his official capacity, is a party.

(3) If the habeas corpus petitioner or appellant is a prisoner, and is not an indigent prisoner as defined in section 31-3220A, Idaho Code, the prisoner may be required to pay all or part of the filing fees on appeal as set forth in sections 31-3201 and 31-3201A, Idaho Code. If the appellant is an indigent prisoner, as found by the court under section 31-3220A, Idaho Code, the transcript on appeal will be paid for as provided in section 1-1105(2), Idaho Code.

(4) In habeas corpus cases on appeal to the ~~S~~supreme ~~C~~court of the state of Idaho, ~~wherein-applicant-~~ in which the appellant is not a prisoner but is otherwise restrained of his liberty by any public officer, the transcript for use on ~~said~~ the appeal will be paid for by the appellant.~~,-but-i~~If the appellant under this paragraph is indi-

gent, ~~it~~ the transcript and/or record for use on the appeal will be paid for in the manner as provided in section 1-1105(2), Idaho Code.

(5) In habeas corpus cases on appeal to the ~~S~~supreme ~~C~~court of the state of Idaho, ~~wherein~~ in which the custody of children is in controversy, the appellant, unless he ~~or she~~ be indigent, shall pay for the record on appeal~~, as in other civil matters~~. If the appellant ~~be~~ under this paragraph is indigent, the record and/or transcript will be paid for as provided in section 1-1105(2), Idaho Code.

SECTION 6. That Section 31-3220, Idaho Code, be, and the same is hereby amended to read as follows:

31-3220. INABILITY TO PAY FEES -- DEFINITIONS -- AFFIDAVIT. (1) For purposes of this section, the following definitions shall apply:

(a) "Action" means any civil suit, action, proceeding or appeal of any such action, including a habeas corpus action, but excluding proceedings brought pursuant to chapter 49, title 19, Idaho Code.

(b) "Court" means the district court (including its magistrates division), the court of appeals of Idaho or the supreme court of Idaho.

(c) "Frivolous" means a claim which has no arguable basis in law or fact, or is substantially similar to a previous claim that has been dismissed with prejudice or is barred by res judicata or collateral estoppel.

(d) "Indigent" means a person who is not a prisoner, as defined in section 31-3220A, Idaho Code, and who is found by the court to be unable to pay fees, costs or give security for the purpose of prepayment of fees, costs or security in a civil action.

(e) "Malicious" means a claim which appears to be intended solely to harass the party.

(2) The ~~district~~ court~~, or the magistrates division thereof,~~ may authorize the commencement or defense of any ~~civil suit,~~ action ~~or proceeding, or an appeal therein,~~ without prepayment of fees, costs or security ~~therefor~~, by any indigent person ~~who makes~~ not a prisoner, providing:

(a) The person files an affidavit that he is indigent as provided in subsection (3) of this section, and unable to pay ~~such~~ fees, costs or give security; ~~therefor, whenever~~ and

(b) ~~T~~the court finds, after informal inquiry, that the person ~~to be~~ is indigent for the purpose of prepayment of fees, costs or security ~~in a civil action or proceeding. Such affidavit shall state the nature of the action, defense or appeal and the affiant's belief he is entitled to redress.~~

(3) The affidavit shall contain complete information as to:

(a) The person's identity;

(b) The nature and amount of his income;

(c) His spouse's income;

(d) The real and personal property owned;

(e) His cash or checking accounts;

(f) His dependents;

(g) His debts;

(h) His monthly expenses;

(i) The nature of the action;

(j) The affiant's belief that he is entitled to redress.

The affidavit shall also contain the following statements: "I am unable to pay the court costs. I verify that the statements made in this affidavit are true and correct." The affidavit shall be sworn as required by law.

(~~2~~4) No fees, costs or security shall be waived ~~for an appeal~~ at the commencement of an action if the ~~trial~~ court finds and certifies in writing that the action is frivolous, ~~or~~ malicious or ~~that it is~~ otherwise not taken in good faith.

(~~3~~5) ~~The court may,~~ ~~u~~Upon the filing of an ~~like~~ affidavit as set forth in this section and a finding ~~of indigency,~~ that the person is indigent, the court may direct that the expense of printing the record and/or transcript ~~or record~~ for use on appeal be paid out of the district court fund of the county in which the ~~civil suit,~~ action ~~or proceeding is~~ was filed.

(~~4~~6) The officers of the court shall issue and serve all process, and perform all duties in ~~such~~ cases in which the person is found by the court to be indigent. Witnesses shall attend as in other cases, and the same remedies shall be available ~~as are provided for by law~~ in other civil cases. Payment of fees for service of process and witnesses, where required, shall be paid out of the district court fund of the county ~~wherein the civil suit,~~ in which the action ~~or proceeding~~ is filed.

(~~5~~7) The court may retroactively require payment for any fees, costs or security which may have been waived in the ~~case~~ action if the court finds that any allegation ~~of poverty~~ contained in the affidavit of inability to pay fees is untrue, or if the court is satisfied that the action is frivolous or malicious~~, or if the action is not taken in good faith~~.

(~~6~~8) Judgment may be ~~rendered~~ entered for attorney fees and costs at the conclusion of the ~~suit or~~ action as in other cases. If the cost of the transcript or printed record has been paid out of the district court fund for the prevailing party, that party may be taxed in favor of the district court fund.

SECTION 7. That Chapter 32, 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 31-3220A, Idaho Code, and to read as follows:

31-3220A. PRISONER INABILITY TO PAY FEES AT TIME OF FILING OF ACTION -- DISMISSAL OF ACTION. (1) For the purposes of this section, the following definitions shall apply:

(a) "Action" means a civil suit, action, proceeding, or appeal of any such action, including habeas corpus, but excluding proceedings brought pursuant to chapter 49, title 19, Idaho Code.

(b) "Indigent prisoner" means a prisoner who has had no funds in his inmate account for the twelve (12) months preceding filing of the action, or the period of his incarceration, whichever is less.

(c) "Inmate account" means an account managed by officials of county jails or state prisons to which the prisoner has access to purchase personal property from the jail or prison commissary in

addition to property and supplies provided by the county or state to meet the prisoner's basic needs.

(d) "Prisoner" means a person who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing.

(2) A prisoner who seeks to file an action without payment of court fees or with partial payment of court fees required in sections 31-3201 and 31-3201A, Idaho Code, shall file the following at the time of filing of an action:

(a) A motion to proceed without payment of court fees or for partial payment of court fees under this section;

(b) An affidavit of inability to pay court fees as set forth in section 31-3220(3), Idaho Code; and

(c) A certified copy of his inmate account that reflects the activity of his account over his period of incarceration or for twelve (12) months, whichever is less. The copy of the prisoner's inmate account shall be certified by a custodian of inmate accounts of the office of the county sheriff or the department of correction.

Upon filing of the action and motion to proceed under this section, the prisoner shall also serve a copy of each document filed in compliance with this subsection upon counsel for the county sheriff or the department of correction.

(3) If the court finds that the prisoner is an indigent prisoner, the court may order the action to proceed without payment of any court fees.

(4) If the court finds that the prisoner is not an indigent prisoner, the court shall order the prisoner to pay all or part of the court fees as set forth in sections 31-3201 and 31-3201A, Idaho Code.

(5) The court may dismiss an action filed under this section, in whole or in part, on its own motion or by motion of a party, upon a finding that:

(a) The nonindigent prisoner has failed to pay the court fees under subsection (4) of this section within thirty (30) days of the entry of the order for court fees, or any time thereafter; or

(b) Any allegation in the prisoner's affidavit filed under this section is false.

(6) If the action or any part of it is dismissed without prejudice under subsection (5) of this section, and the prisoner refiles the action, the following shall apply:

(a) The requirements under this section must be met again in their entirety; and

(b) No amount paid for court fees in any action, or any part thereof, shall be credited to the court fees required under sections 31-3201 and 31-3201A, Idaho Code.

(7) The court may refuse further filings under this section until the order for court fees has been satisfied in any previous action filed under this section.

(8) The office of the attorney general, the county prosecutor, or other counsel for the defendant or respondent, is authorized to receive information from the county sheriff or department of correction in order to verify the financial information submitted by a prisoner pursuant to this section.

(9) The court may request an official or officials of the county jail or department of correction to file an affidavit concerning the allegations in the prisoner's affidavit or concerning the merits of the action prior to determination whether to proceed under this section.

(10) The court may require the prisoner to file an affidavit that the claim has not been previously brought against the same parties or from the same operative facts in any state or federal court.

(11) The court may dismiss an action or a portion of the action under this section, before or after service, on its own motion or by motion of a party, upon a finding that:

(a) Any allegation in the affidavit or the action is false;

(b) The action is frivolous;

(c) The action is malicious; or

(d) The action fails to state a claim upon which relief can be granted.

(12) If a portion of the action is dismissed, the court's order dismissing the action shall also designate the issues and the defendant or respondent upon which the action is to proceed.

(13) The court shall award reasonable costs and attorney fees to the defendant or respondent if the court finds that:

(a) Any allegation in the prisoner's affidavit is false;

(b) The action or any part of the action is frivolous or malicious; or

(c) The action or any part of the action is dismissed for failure to state a claim upon which relief can be granted.

(14) Orders entered under this section are not subject to interlocutory appeal.

(15) Nothing in this section shall prevent a prisoner from authorizing payment beyond that required under the order for filing fees.

(16) Nothing in this section shall be construed to prohibit a prisoner from filing an action without payment of filing fees if he is found to be an indigent prisoner as defined in subsection (1)(b) of this section.

(17) If the court authorizes the commencement of the action or any part of the action without payment of fees upon a finding that the prisoner is an indigent prisoner, and the court later finds that a prisoner is no longer an indigent prisoner, the court may order the prisoner to comply with the requirements of subsection (2) of this section and enter an order for court fees. The court's finding under this subsection may be based on information contained in affidavits or other information available to the court.

(18) The court may develop a form questionnaire which it may require by local rule to be filed to implement this statute.

(19) This section is intended as a procedural guideline only, and nothing herein shall be interpreted to create a liberty interest for prisoners entitling them to due process protection under the Idaho constitution or the United States constitution.

Approved March 20, 1996.

CHAPTER 421
(S.B. No. 1512, As Amended in the House)

AN ACT

RELATING TO THE DEPARTMENT OF LABOR AND THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 72-1331, IDAHO CODE, TO PROVIDE THAT THE EMPLOYMENT SECURITY LAW WILL BE ADMINISTERED BY THE DIRECTOR OF THE DEPARTMENT OF LABOR; AMENDING SECTION 72-1333, IDAHO CODE, TO ESTABLISH THE DEPARTMENT OF LABOR, TO PROVIDE THE DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF LABOR, TO PROVIDE THAT THE DIRECTOR IS THE SUCCESSOR IN LAW TO THE OFFICE ENUMERATED IN SECTION 1, ARTICLE XIII, OF THE CONSTITUTION OF THE STATE OF IDAHO, TO PROVIDE FOR THE RULEMAKING AUTHORITY OF THE DIRECTOR, TO PROVIDE THAT THE DIRECTOR SHALL HAVE ALL THE POWERS IMPOSED UPON OR GRANTED TO THE DIRECTOR OF THE DEPARTMENT OF EMPLOYMENT OR THE DIRECTOR OF THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES, OTHER THAN THOSE GRANTED TO THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY, AND SHALL BE THE SUCCESSOR IN LAW TO ALL CONTRACTUAL OBLIGATIONS ENTERED INTO BY HIS PREDECESSORS, OTHER THAN CONTRACTS TO BE PERFORMED BY THE DIVISION OF BUILDING SAFETY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 59-904, IDAHO CODE, TO DELETE OBSOLETE REFERENCES AND TO INCLUDE THE DIRECTOR OF THE DEPARTMENT OF LABOR WITHIN THE PROVISIONS OF THE SECTION; AMENDING SECTION 67-2402, IDAHO CODE, TO DELETE OBSOLETE REFERENCES AND TO INCLUDE THE DEPARTMENT OF LABOR WITHIN THE PROVISIONS OF THE SECTION; AMENDING SECTION 67-2406, IDAHO CODE, TO DELETE OBSOLETE REFERENCES AND TO INCLUDE THE DIRECTOR OF THE DEPARTMENT OF LABOR WITHIN THE PROVISIONS OF THE SECTION; AMENDING SECTION 67-2601, IDAHO CODE, TO ESTABLISH THE DIVISION OF BUILDING SAFETY IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES, TO PROVIDE FOR AN ADMINISTRATOR OF THE DIVISION AND FOUR BUREAUS, TO PROVIDE THAT THE ADMINISTRATOR AND THE BUREAU CHIEFS SHALL BE NONCLASSIFIED EMPLOYEES, AND TO PROVIDE THE DUTIES OF THE ADMINISTRATOR; REPEALING SECTIONS 44-101, 44-102 AND 44-103, IDAHO CODE; AMENDING SECTION 44-104, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THE DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY WITH RESPECT TO SAFETY INSPECTIONS OF PLACES OF EMPLOYMENT; AMENDING SECTION 44-105, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THE AUTHORITY OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY WITH RESPECT TO INJUNCTIONS TO PREVENT OPERATIONS; AMENDING SECTION 44-106, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF LABOR SHALL COOPERATE WITH THE GOVERNOR IN THE MEDIATION OF LABOR DISPUTES; AMENDING SECTION 44-107, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THE DUTIES OF THE DIRECTOR WITH RESPECT TO REPRESENTATION OF EMPLOYEES IN A COLLECTIVE BARGAINING UNIT; AMENDING SECTION 44-107A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE CORRECT REFERENCES; AMENDING SECTION 44-107B, IDAHO CODE, TO REDESIGNATE THE SECTION, PROVIDE CORRECT REFERENCES AND MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 44-108, IDAHO CODE, TO REDESIGNATE THE SECTION, PROVIDE CORRECT REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 44-109, IDAHO CODE, TO

REDESIGNATE THE SECTION, TO PROVIDE CORRECT TERMINOLOGY, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE THE DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF LABOR WITH RESPECT TO MINIMUM MEDICAL AND HEALTH STANDARDS FOR PAID FIREFIGHTERS; REPEALING SECTION 44-119, IDAHO CODE; AMENDING SECTION 44-1505, IDAHO CODE, TO PROVIDE FOR EMPLOYMENT OF WORKERS WITH DISABILITIES FOR SUBMINIMUM WAGES; AMENDING SECTION 44-1506, IDAHO CODE, TO PROVIDE THE DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF LABOR WITH RESPECT TO APPRENTICES; AMENDING SECTION 44-1507, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF LABOR SHALL FURNISH COPIES OF THE MINIMUM WAGE LAW TO EMPLOYERS FOR POSTING; AMENDING SECTION 44-1508, IDAHO CODE, TO PROVIDE FOR ENFORCEMENT OF THE MINIMUM WAGE LAW BY THE DIRECTOR OF THE DEPARTMENT OF LABOR; AMENDING SECTION 44-1806, IDAHO CODE, TO PROVIDE THE DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF LABOR WITH RESPECT TO APPOINTMENT OF A FACT-FINDING COMMISSION IN LABOR DISPUTES INVOLVING PAID FIREFIGHTERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-45-104, IDAHO CODE, TO PROVIDE A RULEMAKING DUTY OF THE DIRECTOR OF THE DEPARTMENT OF LABOR IN CONNECTION WITH ESTABLISHING LIMITATIONS ON GARNISHMENT OF WAGES AND TO MAKE A TECHNICAL CORRECTION; REPEALING CHAPTER 22, TITLE 39, IDAHO CODE; AMENDING SECTION 39-4001, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY SHALL ENFORCE THE PROVISIONS OF THE CHAPTER; AMENDING SECTION 39-4011, IDAHO CODE, TO PROVIDE A REFERENCE TO THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 39-4104, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY SHALL ENFORCE THE BUILDING CODE ADVISORY ACT; AMENDING SECTION 39-4105, IDAHO CODE, TO PROVIDE CORRECT DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 44-2101A, IDAHO CODE, TO PROVIDE CORRECT DEFINITIONS; AMENDING SECTION 44-2102, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY SHALL ADMINISTER THE LAW GOVERNING THE LICENSING OF MANUFACTURED HOME DEALERS AND BROKERS; AMENDING SECTION 44-2103, IDAHO CODE, TO PROVIDE THAT LICENSE FEES SHALL BE COLLECTED BY THE DIVISION OF BUILDING SAFETY AND TO PROVIDE CORRECT REFERENCES; AMENDING SECTION 44-2104, IDAHO CODE, TO PROVIDE THE DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY WITH RESPECT TO THE MANUFACTURED HOME ADVISORY BOARD; AMENDING SECTION 44-2105, IDAHO CODE, TO PROVIDE THE DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY WITH RESPECT TO SUSPENSION OR REVOCATION OF LICENSES; AMENDING SECTION 44-2106, IDAHO CODE, TO PROVIDE CORRECT REFERENCES TO THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 45-601, IDAHO CODE, TO PROVIDE CORRECT DEFINITIONS; AMENDING SECTION 45-606, IDAHO CODE, TO PROVIDE THE DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF LABOR WITH RESPECT TO THE PAYMENT OF WAGES UPON SEPARATION FROM EMPLOYMENT; AMENDING SECTION 45-613, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE; AMENDING SECTION 45-617, IDAHO CODE, TO PROVIDE FOR PROCEEDINGS FOR THE COLLECTION OF WAGES AND DAMAGES BY THE DIRECTOR OF THE DEPARTMENT OF LABOR; REPEALING SECTION 54-1001A, IDAHO CODE; AMENDING SECTION 54-1001C, IDAHO CODE, TO PROVIDE FOR ELECTRICAL INSPECTIONS BY THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 54-1002, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO PROVIDE A

CORRECT REFERENCE; AMENDING SECTION 54-1003, IDAHO CODE, TO PROVIDE THE AUTHORITY OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY FOR ISSUANCE OF ELECTRICIAN'S LICENSES; AMENDING SECTION 54-1004, IDAHO CODE, TO PROVIDE THE DUTY OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY WITH RESPECT TO INSPECTIONS OF ELECTRICAL INSTALLATIONS; AMENDING SECTION 54-1005, IDAHO CODE, TO PROVIDE THE DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY TO ENFORCE RULES GOVERNING LICENSING OF ELECTRICIANS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-1006, IDAHO CODE, TO PROVIDE THAT THE IDAHO ELECTRICAL BOARD IS PART OF THE DIVISION OF BUILDING SAFETY AND TO PROVIDE THE DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY WITH RESPECT THERETO; AMENDING SECTION 54-1007, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF LICENSES BY THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 54-1010, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO PROVIDE CORRECT REFERENCES; AMENDING SECTION 54-1014, IDAHO CODE, TO PROVIDE CORRECT REFERENCES AND TERMINOLOGY AND TO LIST ADDITIONAL FEE CLASSIFICATIONS FOR SPECIALTY ELECTRICIANS AND MASTER JOURNEYMEN ELECTRICIANS; AMENDING SECTION 54-1015, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-1017, IDAHO CODE, TO PROVIDE CORRECT REFERENCES AND DELETE OBSOLETE LANGUAGE; AMENDING SECTION 54-1019, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT AND QUALIFICATION OF ELECTRICAL INSPECTORS BY THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 54-2602, IDAHO CODE, TO PROVIDE FOR INSPECTION OF WATER TREATMENT INSTALLATIONS BY THE DIVISION OF BUILDING SAFETY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2605, IDAHO CODE, TO PROVIDE THAT THE IDAHO PLUMBING BOARD IS PART OF THE DIVISION OF BUILDING SAFETY AND TO PROVIDE DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY WITH RESPECT THERETO; AMENDING SECTION 54-2606, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE; AMENDING SECTION 54-2607, IDAHO CODE, TO PROVIDE THE POWERS AND DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY WITH RESPECT TO PLUMBING AND PLUMBERS; AMENDING SECTION 54-2608, IDAHO CODE, TO PROVIDE THE DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY WITH RESPECT TO REVOCATION OF CERTIFICATES OF COMPETENCY; AMENDING SECTION 54-2615, IDAHO CODE, TO PROVIDE FOR THE SIGNATURE OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY ON CERTIFICATES OF COMPETENCY; AMENDING SECTION 54-2616, IDAHO CODE, TO PROVIDE FOR PAYMENT OF FEES FOR CERTIFICATES TO THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 54-2618, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE TO THE DIVISION OF BUILDING SAFETY AND TO CORRECT A CODIFIER ERROR; AMENDING SECTION 54-2619, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE TO THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 54-2620, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF PERMITS FOR PLUMBING WORK BY THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 54-2624, IDAHO CODE, TO PROVIDE FOR INSPECTIONS OF PLUMBING SYSTEMS BY THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 54-2626, IDAHO CODE, TO PROVIDE FOR NOTIFICATION OF THE DIVISION OF BUILDING SAFETY OF A NEED FOR INSPECTION; AMENDING SECTION 54-2627, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF PLUMBING INSPECTORS BY THE ADMINISTRATOR OF THE DIVISION OF BUILD-

ING SAFETY; AMENDING SECTION 54-2628, IDAHO CODE, TO PROVIDE CORRECT REFERENCES; AMENDING SECTION 54-2629, IDAHO CODE, TO PROVIDE CORRECT REFERENCES; AMENDING SECTION 54-2630, IDAHO CODE, TO PROVIDE CORRECT REFERENCES AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 67-2312, IDAHO CODE, TO PROVIDE FOR INSPECTION OF PUBLIC BUILDINGS BY THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 67-2313, IDAHO CODE, TO PROVIDE WHEN THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY SHALL INSPECT PUBLIC BUILDINGS; AMENDING SECTION 67-2314, IDAHO CODE, TO PROVIDE FOR A REPORT OF THE INSPECTION AND RECOMMENDATIONS BY THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY; REPEALING SECTION 67-2315, IDAHO CODE; AMENDING SECTION 67-2316, IDAHO CODE, TO PROVIDE CORRECT REFERENCES; AMENDING SECTION 67-2317, IDAHO CODE, TO PROVIDE FOR HEARING AND DECISION BY THE INDUSTRIAL COMMISSION OF DISPUTED ISSUES ARISING FROM RECOMMENDATIONS OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY WITH RESPECT TO THE SAFETY OF PUBLIC BUILDINGS; AMENDING SECTION 67-2318, IDAHO CODE, TO PROVIDE CORRECT REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 72-517, IDAHO CODE, TO DELETE OBSOLETE REFERENCES AND TO PROVIDE FOR COOPERATIVE AGREEMENTS BETWEEN THE INDUSTRIAL COMMISSION AND THE DIRECTOR OF THE DEPARTMENT OF LABOR AND THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY.

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

SECTION 1. That Section 72-1331, Idaho Code, be, and the same is hereby amended to read as follows:

72-1331. ADMINISTRATION. The Employment Security Law shall be administered by ~~a~~ the director of the department of labor, who shall be appointed by the governor, with the advice and consent of the senate. The provisions of this section shall become effective when the office of director becomes vacant for any reason. Any appointments made under the provisions of this section shall be confirmed by the state senate. If an appointment is made during the recess of the legislature, it shall be subject to confirmation by the senate during its next ensuing session.

SECTION 2. That Section 72-1333, Idaho Code, be, and the same is hereby amended to read as follows:

72-1333. DEPARTMENT OF LABOR -- AUTHORITY AND DUTIES OF THE DIRECTOR. (a) It shall be the duty of the director of the department of labor to administer ~~this act~~ the employment security law, the minimum wage law, chapter 15, title 44, Idaho Code, the provisions of chapter 6, title 45, Idaho Code, relating to claims for wages, the provisions of section 44-1812, Idaho Code, relating to medical and health standards for paid firefighters, and to perform such other duties relating to labor and workforce development as may be imposed upon him by law. The director shall be the successor in law to the office enumerated in section 1, article XIII, of the constitution of the state of Idaho. The director shall have the power and authority to employ such persons, make such expenditures, require such reports,

make such investigations, perform such travel ~~pursuant to the provisions of this act~~, and take such other actions as he deems necessary or suitable to that end. He shall determine his own organization to be known as the "department of ~~employment~~ labor" which is hereby created, and which shall, for the purposes of section 20, article IV, of the ~~C~~constitution of the state of Idaho, be an executive department of the state government. The references in the employment security law to "agency," and "employment security agency," are hereby deemed to be references to the "department of ~~employment~~ labor." The director shall determine methods of procedure ~~in accordance with the provisions of this act,~~ and shall have an official seal which shall be judicially noticed.

(b) The director shall have the power and authority pursuant to chapter 52, title 67, Idaho Code, to adopt, amend, or rescind such rules ~~and regulations~~ as may be necessary for the proper administration of this act~~,~~ and the performance of all other duties imposed upon him by law including, without limitation, administration and implementation of the minimum wage law, chapter 15, title 44, Idaho Code; administration and implementation of the law governing claims for wages, chapter 6, title 45, Idaho Code; and compliance with the provisions of section 44-1812, Idaho Code, relating to medical and health standards for paid firefighters; subject, however, to prior approval by the governor of the proposed action.

(c) Subject to the provisions of chapter 53, title 67, Idaho Code, the director is authorized and directed to provide for a merit system for the department covering all persons, except the director, the division administrators, and one (1) exempt position to serve at the pleasure and discretion of the director, ~~employed in the administration of the act~~ and shall have authority, by ~~regulation~~ rule, to provide for all matters which are appropriate to the establishment and maintenance of such system on the basis of efficiency and fitness. The director is authorized to adopt such ~~regulations~~ rules as may be necessary to meet personnel standards promulgated by the secretary of labor pursuant to the Social Security Act, as amended, or other applicable federal laws and to provide for the maintenance of the merit system required under this section in conjunction with the merit system applicable to any other department or departments of this state which meet the personnel standards promulgated by the secretary of labor or other appropriate federal authority.

(d) The director shall acquire and disseminate among the people of the state, information on subjects connected with labor and workforce development, relations between employees, employers and the public, hours of labor, wages and working conditions, the best means of minimizing the economic effect of disputes between workers and employers, and of promoting the welfare of all working people.

(e) The director shall represent the state of Idaho in dealings with the federal mediation and conciliation service of the United States, the department of labor of the United States with respect to apprentice training programs and with the veterans administration of the United States with respect to job training programs.

(f) Annually, not later than the 31st day of December, the director shall submit to the governor a report covering the administration and operation of ~~this act~~ the employment security law and the other

activities of the department during the preceding fiscal year ending June 30, and shall make such recommendations for amendments to ~~this act~~ the employment security law and other laws he is charged to implement as he deems proper.

(g) On and after the effective date of this act, all of the powers and duties imposed upon or granted to the director of the department of employment or the director of the department of labor and industrial services by the laws of the state of Idaho or the United States or the rules of the department of employment or the department of labor and industrial services or the rules and regulations of the United States, except those powers and duties granted and reserved to the administrator of the division of building safety by this act, are hereby transferred to the director of the department of labor. The director of the department of labor shall have all the powers and duties as may have been or could have been exercised by his predecessors in law and he shall be the successor in law to all contractual obligations entered into by his predecessor in law, except for those contracts of the department of labor and industrial services to be performed by the division of building safety.

SECTION 3. That Section 59-904, Idaho Code, be, and the same is hereby amended to read as follows:

59-904. STATE OFFICES -- VACANCIES, HOW FILLED AND CONFIRMED. (a) All vacancies in any state office, and in the supreme and district courts, unless otherwise provided for by law, shall be filled by appointment by the governor. Appointments to fill vacancies pursuant to this section shall be made as provided in subsections (b), (c), (d), (e), and (f) of this section, subject to the limitations prescribed in those subsections.

(b) Nominations and appointments to fill vacancies occurring in the office of lieutenant governor, state controller, state treasurer, superintendent of public instruction, attorney general and secretary of state shall be made by the governor, subject to the advice and consent of the senate, for the balance of the term of office to which the predecessor of the person appointed was elected.

(c) Nominations and appointments to and vacancies in the following listed offices shall be made or filled by the governor subject to the advice and consent of the senate for the terms prescribed by law, or in case such terms are not prescribed by law, then to serve at the pleasure of the governor:

Director of the department of administration,
Director of the department of finance,
Director of the department of insurance,
Director, department of agriculture,
Director of the department of ~~employment~~ labor,
Director of the department of water resources,
Director of the department of law enforcement,
~~Director, department of labor and industrial services,~~
Director of the department of commerce,
Director of the department of juvenile corrections,
Manager of the state insurance fund,
Member of the state tax commission,

Members of the board of regents of the university of Idaho and the state board of education,
Members of the Idaho water resources board,
Members of the state fish and game commission,
Members of the Idaho transportation board,
Members of the state board of health and welfare,
Members of the board of directors of state parks and recreation,
Members of the board of correction,
Members of the industrial commission,
Members of the Idaho public utilities commission,
Members of the Idaho personnel commission,
Members of the board of directors of the Idaho state retirement system.

(d) Appointments made by the state board of land commissioners to the office of director, department of lands, and appointments to fill vacancies occurring in those offices shall be submitted by the president of the state board of land commissioners to the senate for the advice and consent of the senate in accordance with the procedure prescribed in this section.

(e) Appointments made pursuant to this section while the senate is in session shall be submitted to the senate forthwith for the advice and consent of that body. The appointment so made and submitted shall not be effective until the approval of the senate has been recorded in the journal of the senate. Appointments made pursuant to this section while the senate is not in session shall be effective until the appointment has been submitted to the senate for the advice and consent of the senate. Should the senate adjourn without granting its consent to such an interim appointment the appointment shall thereupon become void and a vacancy in the office to which the appointment was made shall exist.

All appointments made pursuant to subsection (c) of this section, except those appointments for which a term of office is fixed by law, shall terminate at the expiration of any gubernatorial term. Appointments to fill the vacancies thus created by the expiration of the term of office of the governor shall be forthwith submitted to the senate for the advice and consent of that body, and when so submitted shall be as expeditiously considered as possible.

Upon receipt of an appointment in the senate for the purpose of securing the advice and consent of the senate, the appointment shall be referred by the presiding officer to the appropriate committee of the senate for consideration and report prior to action thereon by the full senate.

(f) It is the intent of the legislature that the provisions of this section as amended by this act shall not apply to appointments which have been made prior to the effective date of this act. It is the further intent of the legislature that the provisions of this section shall apply to the offices listed in this section and to any office created by law or executive order which succeeds to the powers, duties, responsibilities and authorities of any of the offices listed in subsections (c) and (d) of this section.

SECTION 4. 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~~ labor
Department of finance
Department of fish and game
Department of health and welfare
Department of insurance
Department of juvenile corrections
Idaho transportation department
Industrial commission
~~Department of labor and industrial services~~
Department of lands
Department of law enforcement
Department of parks and recreation
Department of revenue and taxation
Department of self-governing agencies
Department of water resources
State board of education

The public school districts of Idaho, having condemnation authority, shall be considered civil departments of state government for the purpose of and limited to the purchase of state endowment land at appraised prices.

(2) The governor, lieutenant governor, secretary of state, state controller, state treasurer, attorney general and superintendent of public instruction each heads a constitutional office.

(3) For its internal structure, unless specifically provided otherwise, each department shall adhere to the following standard terms:

(a) The principal unit of a department is a division. Each division shall be headed by an administrator. The administrator of any division shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

(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 5. That Section 67-2406, Idaho Code, be, and the same is hereby amended to read as follows:

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

Director, department of administration
Director, department of agriculture
Director, department of commerce

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

SECTION 6. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601. DEPARTMENT CREATED -- ORGANIZATION -- DIRECTOR -- BUREAU OF OCCUPATIONAL LICENSES CREATED. (1) There is hereby created the department of self-governing agencies. The department shall, for the purposes of section 20, article IV of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall consist of the following:

(a) agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission, as provided by chapter 37, title 22, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea and lentil commission, as provided by chapter 35, title 22, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; Idaho prune commission, as provided by chapter 30, title 22, Idaho Code; and the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code; and,

(b) professional and occupational licensing boards: Idaho state board of certified public accountancy, as provided by chapter 2, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board of cosmetology, as provided by chapter 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of denturitry, as provided by chapter 33, title 54, Idaho Code; state board of engineering examiners, as provided by chapter 12, title 54, Idaho Code; board of environmental health specialists examiners, as provided by chapter 24, title 54, Idaho Code; state board for registration of professional geologists, as provided by chapter 28,

title 54, Idaho Code; board of hearing aid dealers and fitters, as provided by chapter 29, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code, and its associated physical therapist advisory board, as provided by chapter 22, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; public works contractors licensing board, as provided by chapter 19, title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; and the board of examiners of residential care facility administrators, as provided by chapter 42, title 54, Idaho Code.

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

(d) the division of building safety, to be headed by a division administrator and comprised of four (4) bureaus: plumbing, electrical, buildings, and logging and industrial safety. The division administrator and bureau chiefs shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 40, title 39, Idaho Code, relating to manufactured homes and recreational vehicles; chapter 41, title 39, Idaho Code, relating to modular buildings; chapter 21, title 44, Idaho Code, relating to manufactured home dealer and broker licensing; chapter 10, title 54, Idaho Code, relating to electrical contractors and journeymen; chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; and shall perform such additional duties as are imposed upon him by law. The division administrator shall cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, and at the request of the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and make a written report to the commission. The administrator shall make recommendations to the commission to aid the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, provided however, that nothing herein shall be construed as transferring to the administrator any of the authority or powers now vested in the industrial commission.

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

SECTION 7. That Sections 44-101, 44-102 and 44-103, Idaho Code, be, and the same are hereby repealed.

SECTION 8. That Section 44-104, Idaho Code, be, and the same is hereby amended to read as follows:

~~44-10~~439-4130. DUTIES OF ~~DIRECTOR~~ ADMINISTRATOR -- RIGHT OF INSPECTION -- EXAMINATION -- POSTING -- RESTRAINT -- PENALTY. The ~~director~~ administrator or his representative shall have authority to enter places of employment ~~covered by this act~~ at reasonable times, and inspect safety and sanitary conditions, and whenever there is found to exist any violation of any law of this state relating to safety and/or sanitary conditions or practices, or that the place of business and/or equipment is not constructed and maintained in conformity with reasonable standards of safety, or that any owner, lessor, lessee, agent, operator, manager, or other person in charge is violating any minimum safety standard adopted by the industrial commission under section 72-720, Idaho Code, the ~~director~~ administrator or his representative shall at once serve, or cause to be served, a written order and/or notice upon the owner, lessor, lessee, agent, operator, manager, or other person in charge of such place of employment, stating in detail the unsafe and/or unsanitary condition or minimum safety standard being violated.

Upon receiving such written order or notice the owner, lessor, lessee, agent, operator, manager, or other person in charge of such place of employment shall require all necessary changes to be made, without delay, within a specified length of time set by the ~~director~~ administrator or his representative. In the event the unsafe and/or unsanitary condition is not abated within the length of time specified by the ~~director~~ administrator or his representative or if the ~~director~~ administrator or his representative finds that conditions or practices are such that an unsafe and/or unsanitary condition exists which could reasonably be expected to cause death or serious physical harm immediately or before the condition of such unsafe and/or unsanitary condition can be eliminated, he shall determine the extent of the area where such unsafe and/or unsanitary condition exists, and thereupon issue an order and/or notice requiring the owner, lessor, lessee, agent, operator, manager, or other person in charge of said place of employment to cause all persons, except those whose presence in such area are necessary to eliminate the danger described in the order, to be withdrawn from, and to be restrained from entering such area or areas. The owner, lessor, lessee, agent, operator, or other person in charge of a place of employment will assist the ~~director~~ administrator or his representative in posting such areas when in the judgment of the ~~director~~ administrator or his representative it is necessary to post such areas to prevent injury. It shall be a misdemeanor to remove or deface such posted order or notice of such unsafe and/or unsanitary conditions without permission to do so from the ~~director~~ administrator or his representative.

SECTION 9. That Section 44-105, Idaho Code, be, and the same is hereby amended to read as follows:

~~44-10~~539-4131. INJUNCTION TO PREVENT OPERATIONS. Upon the neglect or refusal of any owner, lessor, lessee, agent, operator, manager, or other person in charge of a place of employment who has been notified to comply with the requirements stated in any order or notice stating the unsafe and/or unsanitary condition, such owner, lessor, lessee, agent, operator, manager, or other person in charge of such place of employment, shall be deemed guilty of a misdemeanor, and each day's continuance of such neglect or refusal shall be a separate offense. The ~~director~~ administrator or his representative may maintain an action in the name of the state of Idaho to enjoin any owner, lessor, lessee, agent, operator, manager, or other person in charge of any place of employment from doing any act in violation of an order of withdrawal and restraint ~~issued pursuant to this chapter~~, or from doing any act which interferes with, hinders, or delays the ~~director~~ administrator or his representative from carrying out ~~the~~ his statutory duties ~~as set forth in this chapter~~. Such action shall be brought in the district court in which said acts or some of them are claimed to have been or are being committed, by filing a verified complaint setting forth said act or acts. The court or judge thereof if satisfied from such complaint or affidavits that the act or acts or lack of action complained of have been or are being committed and will probably be persisted in may issue a temporary writ without notice or bond enjoining the defendant from the commission of any such act or acts pending final disposition of the cause. The cause shall proceed as in other cases for injunction. If at the trial the commission of said act or acts by the defendant be established, and the court further finds that it is probable that the defendant will continue therein or will continue in similar violations, the court or judge thereof shall enter a decree enjoining said defendant from thereafter committing said or similar act or acts.

SECTION 10. That Section 44-106, Idaho Code, be, and the same is hereby amended to read as follows:

~~44-10~~672-1381. DIRECTOR TO COOPERATE WITH GOVERNOR IN MEDIATION OF DISPUTES. Upon the request of any party to an actual or potential labor dispute, the director shall have the power to mediate in such dispute. He shall use his best efforts to conciliate and resolve such dispute among the disputants. The director or any interested party may apply to the governor for appointment of a mediation panel of representative citizens who are fairminded and objective in matters involving labor disputes, and the governor shall, if the public interest will be served thereby, appoint such a mediation panel. From this panel the governor may select one (1) member to act as a mediator and such member shall be paid his actual expenses while engaged upon the public business. Neither the director, the governor, nor any member of any mediation panel shall be authorized to arbitrate any labor dispute.

SECTION 11. That Section 44-107, Idaho Code, be, and the same is hereby amended to read as follows:

~~44-10~~772-1382. DUTIES OF DIRECTOR -- DETERMINATION OF REPRESENTA-

TIVES. In order to insure employers, employees, and the general public, the full benefits of ~~this act~~ the provisions of sections 72-1381 through 72-1385, Idaho Code, the director shall, when a question arises concerning the representation of employees in a collective bargaining unit, investigate such controversy and certify to the parties, in writing, the name or names of the representatives who have been designated or selected. In any such investigation the director shall provide for an appropriate hearing upon due notice, and may take a secret ballot of employees to ascertain such representatives. In all cases where a secret ballot is taken, the ballot shall be prepared so as to permit a vote against representation by anyone named on the ballot; provided, however, that nothing in this section shall be construed as authorizing the director to conduct an election on any matter which is within the exclusive jurisdiction of any federal act or board; and, provided further that no election shall be directed in any bargaining unit or subdivision within which, in the preceding twelve (12) month period, a valid election was held.

The director may establish such rules ~~or regulations~~ as he deems appropriate to effectuate the policies of ~~this act~~ the provisions of sections 72-1381 through 72-1385, Idaho Code, for the filing of petitions for investigation and certification by employees or their representatives.

SECTION 12. That Section 44-107A, Idaho Code, be, and the same is hereby amended to read as follows:

~~44-107A~~72-1383. EMPLOYERS AND BARGAINING AGENT ARE REQUIRED TO NEGOTIATE. Whenever the director designates a bargaining agent for a bargaining unit as provided in section ~~44-107~~72-1382, Idaho Code, both the employer and the designated bargaining agent must bargain in good faith.

SECTION 13. That Section 44-107B, Idaho Code, be, and the same is hereby amended to read as follows:

~~44-107B~~72-1384. PENALTIES FOR VIOLATIONS. Any employer or any employee or union or union officer violating the ~~above~~ provisions of sections ~~44-107~~72-1382 and ~~44-107A~~72-1383, Idaho Code, shall, upon conviction thereof by any court of competent jurisdiction, be punished by a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

SECTION 14. That Section 44-108, Idaho Code, be, and the same is hereby amended to read as follows:

~~44-108~~72-1385. ~~ACT~~ PROVISIONS NOT TO APPLY TO AGRICULTURAL OR DOMESTIC LABOR. ~~This act~~ The provisions of sections 72-1381 through 72-1384, Idaho Code, shall not apply to labor engaged in agricultural labor as that term is defined in section 72-1304, Idaho Code, nor to anyone engaged in domestic service in homes.

SECTION 15. That Section 44-109, Idaho Code, be, and the same is

hereby amended to read as follows:

44-~~109~~1812. MINIMUM MEDICAL AND HEALTH STANDARDS FOR PAID ~~FIREMEN~~ FIREFIGHTERS. (1) The term "minimum medical and health standards" means minimum medical and health standards adopted by the director of the department of labor ~~and industrial services~~ pursuant to this section.

(2) No paid ~~fireman~~ firefighter as defined in sections 44-1801(a) and 59-1391(f), Idaho Code, may be employed until he:

(a) Has met and has been certified as having met minimum medical and health standards;

(b) Has successfully passed a physical agility test conducted by an examining physician;

(c) Is at least nineteen (19) years of age at the time of appointment; and

(d) Has met prescribed physical performance standards as promulgated by the director of the department of labor ~~and industrial services~~.

(3) A true copy of the medical history and physical agility test of the applicant, completed and signed by the examining physician shall accompany employer certification to the director of the department of labor ~~and industrial services~~. Such records shall be furnished prior to the date of active employment of the applicant. If an applicant has failed to meet the department's standards for employment as a paid ~~fireman~~ firefighter, the applicant shall not be eligible for employment and the department shall provide notice of the applicant's ineligibility to the employer.

(4) Physical examination records shall be a part of the permanent file of the employer.

(5) ~~By October 1, 1984, t~~The director of the department of labor ~~and industrial services~~ shall adopt minimum medical and health standards for employment as a paid ~~fireman~~ firefighter, and shall select an examining physician for each city, county and fire district. In adopting such standards the director shall consider existing standards recommended by the professional firefighters of Idaho, and shall adopt equal or higher standards, together with appropriate standards and procedures to insure uniform compliance with this section. The standards when adopted shall be published and distributed to each employer. The cost of the medical examination contemplated by this section is to be paid by the employer.

(6) Nothing in this section shall apply to paid ~~firemen~~ firefighters who are employed as such before October 1, 1980, as long as they continue in such employment; nor to promotional appointments after becoming a member of a fire department of any employer; nor to the reemployment of a paid ~~fireman~~ firefighter by the same or a different employer within two (2) years after the termination of his employment; nor to the reinstatement of a paid ~~fireman~~ firefighter who has been on military or disability leave, disability retirement status, or who was terminated because of a reduction in force or leave of absence status.

SECTION 16. That Section 44-119, Idaho Code, be, and the same is hereby repealed.

SECTION 17. That Section 44-1505, Idaho Code, be, and the same is hereby amended to read as follows:

44-1505. ~~HANDICAPPED~~ EMPLOYMENT OF WORKERS WITH DISABILITIES FOR SUBMINIMUM WAGES. ~~For any employment in which t~~The payment of the minimum wage ~~is applicable, the director of the department of labor and industrial services may issue to any person physically defective by age, or otherwise,~~ under this act shall not apply to a worker with disabilities, if the employer is issued a special ~~license authorizing the employment of such person for a period not to exceed one (1) year at a wage less than the minimum wage established by this act. The director may hold such hearings and conduct such investigations as he shall deem necessary for the purpose of fixing the special minimum wage for the licensee. Such license may be renewed from time to time by the director~~ certificate, as provided now or hereafter under the federal fair labor standards act.

SECTION 18. That Section 44-1506, Idaho Code, be, and the same is hereby amended to read as follows:

44-1506. APPRENTICE. For any employment in which the minimum wage is applicable, the director of the department of labor ~~and industrial services~~ may issue to an apprentice or learner a special license authorizing the employment of such apprentice or learner for the time and under the conditions which he determines and at a wage less than the minimum wage established by this act. Apprentice or learner shall include a student or students enrolled in a bona fide secondary school program administered by an accredited school district which includes work training experience. The director may hold such hearings and conduct such investigations as he shall deem necessary before fixing a special wage for such apprentice or learner.

SECTION 19. That Section 44-1507, Idaho Code, be, and the same is hereby amended to read as follows:

44-1507. POSTING OF SUMMARY OF THE ACT. Every employer subject to this act shall keep a summary of this act, furnished by the director of the department of labor ~~and industrial services~~, without charge, posted in a conspicuous place, in or about the premises wherein any person subject to the act is employed, or in a place accessible to his employees.

SECTION 20. That Section 44-1508, Idaho Code, be, and the same is hereby amended to read as follows:

44-1508. ENFORCEMENT. (1) When the director of the department of labor ~~and industrial services~~ has reason to believe that an employer is engaged in an act or practice which violates or will violate a provision of chapter 15, title 44, Idaho Code, he may bring an action in a court of competent jurisdiction to enjoin the act or practice, and to enforce compliance with the provisions of chapter 15, title 44, Idaho Code. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(2) A claim for unpaid minimum wages as set forth in section 44-1502, Idaho Code, may be treated as a claim for wages due and owing under chapter 6, title 45, Idaho Code. Enforcement or suit under chapter 6, title 45, Idaho Code, for unpaid minimum wages may be commenced by the employee or employees affected, or by the department of labor ~~and industrial services~~ whether a wage claim has been filed with the department or not. Such claim shall not be subject to the limitation contained in section 45-615(1), Idaho Code, if brought by the department of labor ~~and industrial services~~. Any action for such wages must be commenced in a court of competent jurisdiction within two (2) years after the cause of action shall have accrued.

SECTION 21. That Section 44-1806, Idaho Code, be, and the same is hereby amended to read as follows:

44-1806. APPOINTMENT OF FACT-FINDING COMMISSION -- PUBLIC OFFICIALS AND EMPLOYEES INELIGIBLE -- PAYMENT OF EXPENSES. Within five (5) days from the expiration of the thirty (30) day period referred to in section 44-1805, Idaho Code, the bargaining agent and the corporate authorities shall each select and name one (1) member of a fact-finding commission respectively and shall immediately thereafter notify each other in writing of the names and addresses of the person so selected. The two (2) members so selected and named shall within ten (10) days from and after the expiration of the five (5) day period mentioned above, agree upon and appoint and name a third member. If on the expiration of the ten (10) day period the two (2) members are unable to agree upon the appointment of a third member, the director of the department of labor ~~and industrial services~~ shall appoint such third member upon request in writing from either the bargaining agent or the corporate authorities. The third member of the fact-finding commission, whether appointed as result of agreement between the two (2) members selected by the bargaining agent and the corporate authorities, or appointed by the director, shall act as chairman of the fact-finding commission. No member of the fact-finding commission shall be an elected official, or employee of the city, county, fire district, or political subdivision affected. Any expenses incurred by the fact-finding commission shall be equally shared by the bargaining agent and the corporate authorities.

SECTION 22. That Section 28-45-104, Idaho Code, be, and the same is hereby amended to read as follows:

28-45-104. LIMITATION ON GARNISHMENT. (1) For the purposes of this part:

(a) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld; and

(b) "Garnishment" means any legal or equitable procedure through which the earnings of an individual are required to be withheld for payment of a debt.

(2) The maximum part of the aggregate disposable earnings of an individual for any work week which is subject to garnishment to enforce payment of a judgment arising from a regulated consumer credit

sale or regulated consumer loan may not exceed the lesser of:

(a) Twenty-five percent (25%) of his disposable earnings for that week; or

(b) The amount by which his disposable earnings for that week exceed forty (40) times the federal minimum hourly wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, U.S.C. title 29, section 206(a)(1), in effect at the time the earnings are payable.

(c) In the case of earnings for a pay period other than a week, the director of the department of labor ~~and--industrial--services~~ shall prescribe by ~~regulation~~ rule a multiple of the federal minimum hourly wage equivalent in effect to that set forth in paragraph (b).

(3) No court may make, execute, or enforce an order or process in violation of this section.

SECTION 23. That Chapter 22, Title 39, Idaho Code, be, and the same is hereby repealed.

SECTION 24. 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~~ administrator of the division of building safety shall enforce the provisions of this chapter. It shall be the responsibility and duty of the state electrical and plumbing boards to assist the ~~director~~ administrator in the administration and enforcement of the provisions of this chapter as hereinafter provided.

SECTION 25. That Section 39-4011, Idaho Code, be, and the same is hereby amended to read as follows:

39-4011. VIOLATIONS. (1) Any person who violates any of the following provisions relating to manufactured homes, or any ~~regulation~~ rule promulgated by the ~~Idaho-department-of-labor-and-industrial--services~~ administrator of the division of building safety to administer the provisions of this chapter shall be liable for a civil penalty of not to exceed one thousand dollars ($1,000) for each such violation. Each such violation shall constitute a separate violation with respect to each manufactured home, except that the maximum penalty shall not exceed one million dollars ($1,000,000) for any related series of violations occurring within one (1) year from the date of the first violation. Violations include:

(a) Manufacturing for sale, leasing, selling, offering for sale, or introducing or delivering or importing, in the state of Idaho, any manufactured home which is manufactured on or after the effective date of any applicable federal manufactured home construction and safety standard which does not comply with such standard;

(b) Failure or refusal to permit entry or inspection as required by section 39-4003A, Idaho Code;

(c) Failure of manufacturer to give notification of any defects in any manufactured home, in the manner required by 42 USC 5414;

(d) Failure to furnish to distributor or dealer at the time of

delivery of each manufactured home produced by such manufacturer, certification that said manufactured home conforms to all applicable federal construction and safety standards or issuance of a certification to the effect that a manufactured home conforms to all applicable federal manufactured home construction and safety standards, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect;

(e) Failure of any manufacturer, distributor or dealer of manufactured homes to establish and maintain such records, make such reports, and provide such information as the ~~director of the Idaho department of labor and industrial services~~ administrator of the division of building safety may reasonably require to enable him to determine whether such manufacturer, distributor or dealer has acted or is acting in compliance with this chapter and with federal manufactured home construction and safety standards; or failure to permit, upon request of a person duly designated by the ~~director~~ administrator, inspection of appropriate books, papers, records and documents relative to determining whether such manufacturer, distributor or dealer has acted or is acting in compliance with federal manufactured home construction or safety standards.

(2) Any person or officer, director or agent of a corporation who wilfully or knowingly violates the provisions enumerated in subsection 1(a) through (e) of this section, in any manner which threatens the health or safety of any purchaser shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(3) Violations of this chapter shall be tried in any court of competent jurisdiction within the state of Idaho.

SECTION 26. That Section 39-4104, Idaho Code, be, and the same is hereby amended to read as follows:

39-4104. ENFORCEMENT OF LAW. The ~~director of labor and industrial services~~ administrator of the division of building safety shall enforce the provisions of this act.

SECTION 27. 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~~ Administrator" means the ~~director of the department of labor and industrial services~~ administrator of the division of building safety 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~~3) "Person" means a natural person, corporation, partnership, trust, society, club, association, or other organization.

(~~5~~4) "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~~5) "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~~6) "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~~7) "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 of the state of Idaho which establish standards and requirements applicable to the construction, alteration, repair, or demolition of buildings.

(~~9~~8) "Local government" means any city or county of this state.

(~~10~~9) "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~~10) "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~~11) "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~~12) "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~~13) "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~~14) "Temporary facility" means a structure designed and constructed to service actual construction projects and which is com-

pletely 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.

(16~~4~~5) "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.

(17~~5~~6) "Telecommunications facilities" means 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.

(18~~6~~7) "Farm" means an agricultural unit of five (5) acres or more.

SECTION 28. That Section 44-2101A, Idaho Code, be, and the same is hereby amended to read as follows:

44-2101A. DEFINITIONS. As used in this chapter:

(1) ~~"Department"--means--the--department--of-labor-and-industrial services-of-the-state-of-Idaho.~~

~~(2)--"Director~~ "Administrator" means the ~~director-of--the--department-of-labor-and-industrial-services~~ administrator of the division of building safety of the state of Idaho.

(3~~2~~) "Manufactured home" means a structure as defined in section 39-4105(14), Idaho Code.

(4~~3~~) "Manufactured home broker" means any person engaged in the business of selling or exchanging used units only, or who buys, sells, lists or exchanges three (3) or more used units in any one (1) calendar year, except as otherwise provided in this chapter.

(5~~4~~) "Manufactured home dealer" means any person engaged in the business of selling or exchanging new and used units, or who buys, sells, lists or exchanges three (3) or more new and used units in any one (1) calendar year, except as otherwise provided in this chapter.

(6~~5~~) "Manufactured home salesman" means any person employed by a manufactured home dealer or broker for a salary, commission or compensation of any kind to sell, list, purchase or exchange or to negotiate for the sale, listing, purchase or exchange of units, except as otherwise provided in this chapter.

(7~~6~~) "Manufactured home service company" includes "manufactured home installer" and means any person other than a manufactured home dealer who provides service, setup, or both, of manufactured or mobile homes.

(8~~7~~) "Manufacturer" means any person engaged in the business of manufacturing manufactured homes that are offered for sale, lease or exchange in the state of Idaho.

(9~~8~~) "Mobile home" means a structure similar to a manufactured home, but built to a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(~~10~~9) "Person" means a natural person, corporation, partnership,

trust, society, club, association, or other organization.

(1~~1~~0) "Principal place of business" means an enclosed structure accessible and open to the public, at which the business is lawfully conducted in accordance with the terms of all applicable building codes, zoning and other land use regulatory ordinances, in which building the public may contact the dealer, broker or salesman, and at which place shall be kept and maintained the books, records and files necessary to conduct the business. There shall be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic.

(1~~2~~1) "Unit" means a mobile or manufactured home.

SECTION 29. That Section 44-2102, Idaho Code, be, and the same is hereby amended to read as follows:

44-2102. ADMINISTRATION -- POWERS AND DUTIES. The ~~director~~ administrator is charged with the administration of the provisions of this chapter and shall:

(1) In accordance with the provisions of chapter 52, title 67, Idaho Code, promulgate, adopt, amend, and repeal rules ~~and regulations~~, not inconsistent with the provisions of this chapter and the laws of the state of Idaho, as he shall consider necessary, to provide for the licensing and bonding of manufactured home dealers and brokers, manufacturers and service firms, the licensing of manufactured home salesmen, and the establishment of a mandatory statewide manufactured home "set up" code. The ~~director~~ administrator shall also define and prohibit any practice which is found to be deceptive.

(2) A used unit which has been determined to be or declared by the owner to be real property under the provisions of section 63-307B, Idaho Code, may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman representing a licensed broker, but not a manufactured home dealer or manufactured home salesman. A used unit which has been determined to be and is carried on the tax rolls as personal property may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman, pursuant to chapter 20, title 54, Idaho Code, or by a licensed manufactured home dealer, broker, or manufactured home salesman, but with respect to a licensed manufactured home dealer, broker or salesman only to the extent such sale does not involve the purchase or sale of an interest in real estate.

SECTION 30. That Section 44-2103, Idaho Code, be, and the same is hereby amended to read as follows:

44-2103. FEES -- DEPOSIT OF FEES. (1) Fees for licensing of dealers, brokers, manufacturers, salesmen and service companies shall not exceed:

(a) Manufactured home dealer or broker's license $250.00
(b) Manufacturer license $250.00
(c) Manufactured home service company/installer $125.00
(d) Manufactured home salesman's license ..... $ 25.00

(2) All license fees collected by the ~~department~~ division of building safety under the provisions of this chapter shall be paid into the manufactured housing account, which is hereby created in the dedicated fund. The expenses incurred in administering and enforcing the provisions of this chapter shall be paid from the account.

(3) The following performance bonding requirements shall be met before the issuance of these licenses:

(a) Manufacturer ..... $20,000 bond
(b) Manufactured home dealer ..... $20,000 bond
(c) Manufactured home broker ..... $20,000 bond
(d) Manufactured home service company/installer .... $ 5,000 bond

(4) The ~~director~~ administrator is authorized to provide by rule, in accordance with the provisions of section 44-2102, Idaho Code, for the acceptance of a money deposit in lieu of a bond in satisfaction of the bonding requirements of this section.

SECTION 31. That Section 44-2104, Idaho Code, be, and the same is hereby amended to read as follows:

44-2104. MANUFACTURED HOME ADVISORY BOARD. (1) A manufactured home advisory board is established in the ~~department~~ division of building safety as a complaint and appeals board and to advise the ~~director~~ administrator in the administration and enforcement of the provisions of this chapter. The board shall consist of five (5) members, appointed by the governor from licensed manufactured home dealers. The board shall serve the following terms commencing January 1, 1989: two (2) members shall be appointed for a term of one (1) year, two (2) members shall be appointed for a term of two (2) years, and one (1) member shall be appointed for a term of three (3) years. Thereafter board members shall be appointed for a term of three (3) years. Not more than three (3) members shall at any time belong to the same political party. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term. The members of the board shall be compensated as provided in section 59-509(f), Idaho Code, for each day spent in attendance at meetings of the board. A majority of members shall constitute a quorum, and a quorum at any meeting called by the ~~director~~ administrator shall have full and complete power to act upon and resolve in the name of the board any matter, thing or question referred to it by the ~~director~~ administrator, or which by reason of any provision of this chapter, it has the power to determine.

(2) The board shall, on the first day of each January or as soon thereafter as practicable, elect a chairman, vice-chairman and secretary from among its members, and these officers shall hold office until their successors are elected. As soon as the board has elected its officers, the secretary shall certify the results of the election to the ~~director~~ administrator. The chairman shall preside at all meetings of the board and the secretary shall make a record of the proceedings which shall be preserved in the offices of the ~~department~~ division of building safety. If the chairman is absent from any meeting of the board, his duties shall be discharged by the vice-chairman. All members of the board present at a meeting shall be entitled to vote on any question, matter, or thing which properly comes before it.

SECTION 32. That Section 44-2105, Idaho Code, be, and the same is hereby amended to read as follows:

44-2105. SUSPENSION OR REVOCATION OF LICENSES -- HEARING -- JUDICIAL REVIEW -- REAPPLICATION. (1) The ~~director~~ administrator may suspend or revoke any license, if the license was obtained through error or fraud, or if the holder thereof is shown to be grossly incompetent, or has wilfully violated any provision of this chapter or the rules adopted thereunder.

(2) The ~~director~~ administrator shall have the power to appoint, by an order in writing, any competent person to take testimony at a hearing conducted for the purposes of determining whether a license should be suspended or revoked. The ~~director~~ administrator, and any hearing officer appointed by the ~~director~~ administrator, shall have the power to administer oaths, issue subpoenas and compel the attendance of witnesses and the production of documents and records.

(3) Before any license shall be suspended or revoked, the holder thereof shall be served with written notice enumerating the charges against him, and shall be afforded an opportunity for an appropriate contested case in accordance with the provisions of chapter 52, title 67, Idaho Code. The notice shall specify the time and place for hearing, which time shall not be less than five (5) days after the service thereof.

(4) Any party aggrieved by an order of the ~~director~~ administrator suspending or revoking a license shall be entitled to judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

(5) Any person whose license has been revoked may not apply for a new license until the expiration of one (1) year from the date of such revocation.

SECTION 33. That Section 44-2106, Idaho Code, be, and the same is hereby amended to read as follows:

44-2106. VIOLATIONS. (1) It shall be unlawful to engage in business as a manufacturer, manufactured home dealer, manufactured home broker, manufactured home salesman or manufactured home service company without being duly licensed by the ~~department~~ division of building safety pursuant to this chapter.

(2) It shall be unlawful for a manufacturer, manufactured home dealer, manufactured home broker, manufactured home salesman or manufactured home service company to:

(a) Intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products or services sold or provided by a manufacturer, manufactured home dealer, broker, salesman or service company;

(b) Violate any of the provisions of this chapter or any rule adopted by the ~~department~~ division of building safety pursuant to this chapter;

(c) Knowingly purchase, sell or otherwise acquire or dispose of a stolen manufactured or mobile home;

(d) With respect only to a manufactured home dealer or broker, to

engage in the business for which such dealer or broker is licensed without at all times maintaining a principal place of business located within the state.

SECTION 34. That Section 45-601, Idaho Code, be, and the same is hereby amended to read as follows:

45-601. DEFINITIONS. Whenever used in this chapter:

1. "Director" means the ~~head~~ director of the department of labor ~~and industrial services~~ of the state of Idaho.

2. "Employee" means any person suffered or permitted to work by an employer.

3. "Employer" means any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee, or successor of any of the same, employing any person.

4. "Wages" means compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece or commission basis.

SECTION 35. That Section 45-606, Idaho Code, be, and the same is hereby amended to read as follows:

45-606. PAYMENT OF WAGES UPON SEPARATION FROM EMPLOYMENT. 1. Upon layoff, or upon termination of employment by either the employer or employee, the employer shall pay or make available at the usual place of payment all wages then due the employee by the earlier of the next regularly scheduled payday or within ten (10) days of such layoff or termination, weekends and holidays excluded. However, if the employee makes written request upon the employer for earlier payment of wages, all wages then due the employee shall be paid within forty-eight (48) hours of the receipt of such request, weekends and holidays excluded.

2. The director of the department of labor ~~and industrial services~~ may, upon application showing good and sufficient reasons, grant an employer a temporary extension to any time limitation provided in this section.

SECTION 36. That Section 45-613, Idaho Code, be, and the same is hereby amended to read as follows:

45-613. DISCHARGING OR RETALIATING AGAINST EMPLOYEES ASSERTING RIGHTS UNDER THIS CHAPTER. No employer shall discharge or in any other manner retaliate against any employee because that employee has made a complaint to his employer or to the director or his authorized representative, that he has not been paid in accordance with the provisions of this chapter, or because the employee has testified or may be about to testify in an investigation undertaken by the department of labor ~~and industrial services~~. The provisions of this section shall not be construed to otherwise restrict the discipline or termination of an employee.

SECTION 37. That Section 45-617, Idaho Code, be, and the same is hereby amended to read as follows:

45-617. PROCEEDINGS FOR COLLECTION OF WAGES AND DAMAGES -- $2,000 LIMIT. 1. Claims for unpaid wages and other compensation, excluding potential penalties, filed with the director of the department of labor ~~and industrial services~~ as set forth in this chapter are limited to two thousand dollars ($2,000) for each employee.

2. Any proceeding by one (1) or more employees to assert any claim arising under or pursuant to this chapter may be brought in any court of competent jurisdiction, either as individual, class or representative suits.

3. Whenever the director determines that one (1) or more employees have claims for unpaid wages he may, upon the written request of the employee, take an assignment of the claim or claims in trust for such employee or employees, and may maintain any proceeding appropriate to enforce the claim or claims, including additional fixed damages pursuant to this chapter. With the written consent of the assignor, the director may settle or adjust any claim assigned pursuant to this subsection.

4. Any judgment rendered by a court of competent jurisdiction for the plaintiff in a proceeding pursuant to this chapter shall include all costs and attorney fees reasonably incurred in connection with the proceedings and the plaintiff, or the director in his behalf, shall be entitled to recover from the defendant, as damages, three (3) times the amount of unpaid wages found due and owing.

5. The director shall attempt for a period of not less than two (2) years, from the date of collection, to make payment of wages collected under this chapter to the person entitled thereto. Wages collected by the director and remaining unclaimed for a period of more than two (2) years from the date collected shall on June 1st of each year be forfeited and retained in the department's account and used for the administration of this chapter.

SECTION 38. That Section 54-1001A, Idaho Code, be, and the same is hereby repealed.

SECTION 39. That Section 54-1001C, Idaho Code, be, and the same is hereby amended to read as follows:

54-1001C. INSPECTIONS WITHIN MUNICIPALITIES ~~--~~ WHEN AUTHORIZED. The ~~director of the department of labor and industrial services~~ administrator of the division of building safety may make electrical inspections within any city upon written request from the mayor or manager of such city. Such inspections shall be made in accordance with the local ordinance or building code. Service of the inspector shall be furnished at cost, such cost to be paid monthly to the ~~director~~ administrator by the city requesting inspection service.

SECTION 40. That Section 54-1002, Idaho Code, be, and the same is hereby amended to read as follows:

54-1002. LICENSE ESSENTIAL TO ENGAGE IN BUSINESS. (1) ~~From and after July 1, 1961, i~~It shall be unlawful for any person, partnership, company, firm, association or corporation, to act, or attempt to act, as an electrical contractor in this state until such person, partner-

ship, company, firm, association or corporation, shall have received a license as an electrical contractor, as herein defined, issued pursuant to the provisions of this act by the ~~department of labor and industrial services~~ administrator of the division of building safety.

(2) ~~From and after July 1, 1961, i~~It shall be unlawful for any person to act as a journeyman electrician in this state until such person shall have received a license as a journeyman electrician, as herein defined, issued pursuant to the provisions of this act, by the ~~department of labor and industrial services~~ administrator of the division of building safety, provided, however, that any person who has been issued a master journeyman electrician's license pursuant to this act may act as a journeyman electrician.

SECTION 41. That Section 54-1003, Idaho Code, be, and the same is hereby amended to read as follows:

54-1003. ~~DIRECTOR~~ ADMINISTRATOR AUTHORIZED TO ISSUE LICENSE. The ~~director of the department of labor and industrial services~~ administrator of the division of building safety of the state of Idaho is hereby authorized and empowered to conduct examinations and to pass upon the qualifications of applicants, and to grant and issue licenses to such applicants as are found to be qualified to engage in the trade, business or calling of a journeyman electrician or electrical contractor or master journeyman electrician in the manner and upon the terms and conditions hereinafter provided. All licenses granted hereunder shall not be transferable. Licenses shall be issued upon the condition that the holder thereof shall comply with all provisions of this act.

SECTION 42. That Section 54-1004, Idaho Code, be, and the same is hereby amended to read as follows:

54-1004. INSPECTION OF ELECTRICAL INSTALLATIONS -- NOTICE OF DEFECTS -- DISCONNECTING ELECTRICAL SERVICE. The ~~director of the department of labor and industrial services~~ administrator of the division of building safety may, during reasonable hours, inspect, reinspect or test any electrical installation coming under the provisions of this act. If, upon inspection, any electrical installation is found to be not in conformity with the provisions of this act, the person, partnership, company, firm, association or corporation making such installation shall immediately be notified, in writing. The notice shall clearly indicate any and all defects to be corrected and specify a definite period of time during which such corrections shall be made. The ~~director~~ administrator may cut or disconnect any wire in cases of emergency where necessary for safety of life or property, or order the disconnection of electrical service to any electrical installation, coming under the provisions of this act, when such installation is found to be dangerous to life or property.

SECTION 43. That Section 54-1005, Idaho Code, be, and the same is hereby amended to read as follows:

54-1005. RULES ~~AND REGULATIONS~~ -- INSPECTIONS -- INSPECTION TAGS

AND FEES. (1) The ~~director of the department of labor and industrial services~~ administrator of the division of building safety is hereby authorized and directed to enforce rules ~~and regulations~~ consistent with this act for the administration of this act and to effectuate the purposes thereof, and for the licensing of electrical contractors and the examination and licensing of journeyman electricians, and the examination and licensing of master journeyman electricians and to set by rule the fee for master journeyman electrician licenses, and to make inspections of electrical installations referred to in section 54-1001, Idaho Code, and to issue inspection tags covering such installations, and to collect the fees established therefor.

(2) Individuals, firms, cooperatives, corporations, or municipalities selling electricity, hereinafter known as the power supplier, shall not connect with or energize any electrical installation, coming under the provisions of this act, unless the owner or a licensed electrical contractor has delivered to the power supplier an inspection tag, issued by the ~~director~~ administrator, covering the installation to be energized. Immediately after an installation has been energized, the power supplier shall deliver to the ~~director~~ administrator or his authorized agent, the inspection tag covering such installation.

(3) It shall be unlawful for any person, partnership, company, firm, association or corporation other than a power supplier, to energize any electrical installation coming under the provisions of this act unless an application for an electrical inspection tag, covering such installation, together with the inspection fee herein provided, has been forwarded to the ~~director~~ administrator.

SECTION 44. That Section 54-1006, Idaho Code, be, and the same is hereby amended to read as follows:

54-1006. IDAHO ELECTRICAL BOARD. (1) The Idaho electrical board, hereinafter known as the board, is hereby created and made a part of the ~~electrical~~ division of ~~department of labor and industrial services~~ building safety. It shall be the responsibility and duty of the ~~director of the department of labor and industrial services~~ administrator of the division of building safety to administer and enforce the provisions of this act, to serve as secretary to the Idaho electrical board, and to appoint the chief electrical inspector~~, who shall be the division administrator~~.

(2) The board shall consist of seven (7) members to be appointed by the governor with power of removal for cause. Board members shall be appointed for a term of four (4) years. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(3) All members of the board shall be citizens of the United States, residents of this state for not less than two (2) years and shall be qualified by experience, knowledge and integrity in formulating rules ~~and regulations~~ for examinations, in passing on the fitness and qualifications of applicants for electrical contractor and journeyman electrician licenses and in establishing standards for electrical products to be used in electrical installations coming under the provisions of this act.

(4) The members of the board shall, at their first regular meet-

ing following the effective date of this act and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. In the event the chairman is not present at any board meeting, the board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the board shall constitute a quorum.

(5) The board is authorized and directed to prescribe and amend rules ~~and regulations~~ consistent with this act for the administration of this chapter and to effectuate the purpose thereof, and for the licensing of electrical contractors and the examination and licensing of journeyman electricians. The board shall also establish the fees to be charged for permits and inspections of electrical systems.

(6) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509(g), Idaho Code.

SECTION 45. That Section 54-1007, Idaho Code, be, and the same is hereby amended to read as follows:

54-1007. ISSUANCE OF LICENSES -- RECIPROCITY. (1) The ~~director~~ administrator shall issue licenses to such persons as have by examination shown themselves to be fit, competent and qualified to engage in the trade of journeyman electrician, or master journeyman electrician, and to such persons, firms, partnerships, associations or corporations as have shown themselves to be fit, competent and qualified to engage in the business of electrical contracting. Any person who has worked as a journeyman electrician or as an apprentice electrician, as herein defined, for a period of not less than four (4) years, shall be considered as qualified to apply for a journeyman electrician's license in this state, provided that for each such year he is claiming to have worked as an apprentice electrician, the apprentice registered with the ~~department--of-labor-and-industrial-services~~ division of building safety as an apprentice, paid an apprentice registration fee ~~to--the department~~, and submitted with his annual application for apprentice registration verification of employment and hours worked. The electrical board may, by rule, fix the apprentice registration fee, in an amount not to exceed the costs of issuing apprentice registration certificates and enforcing the apprentice registration provisions of this act, and may also by rule establish requirements relative to the manner of verification of employment and hours worked. Before such experience as an apprentice may be considered as qualifying the apprentice to take the journeyman's examination, the apprentice must also complete the required related instruction for electrical apprentices as approved by the Idaho state board for vocational education. Any person who has worked in this state for a period of not less than two (2) years as a journeyman electrician shall be considered as qualified to apply for a master journeyman electrician's license in this state.

(2) To the extent that other states which provide for the licensing of electricians provide for similar action, the ~~director~~ administrator, on the recommendation of the Idaho electrical board, may grant licenses to electricians licensed by such other states, upon payment by the applicant of the required fee and upon furnishing proof to the board that the applicant has qualifications at least equal to those

provided herein for applicants for written examinations. Applicants who qualify for a license under this subsection are not required to take a written examination.

SECTION 46. That Section 54-1010, Idaho Code, be, and the same is hereby amended to read as follows:

54-1010. INSTALLATIONS BY ELECTRICAL CONTRACTOR PERFORMED BY LICENSED JOURNEYMAN -- PRIOR CERTIFICATE HOLDERS ENTITLED TO LICENSE -- LIST OF ELECTRICIANS IN CONTRACTOR'S EMPLOY. (1) On and after July 1, 1961, any electrical contractor who works as a journeyman electrician, as herein defined, shall be required to have a journeyman electrician's license issued under the provisions of this act. All installations of electrical wiring, equipment or apparatus made by an electrical contractor shall be done by or under the direct supervision of a licensed journeyman electrician.

(2) ~~Any--person--who--has--by--examination-received-an-electrical contractor's-certificate-of-competency,-issued-by-the--director--prior to--July--1,--1961,--or--any-person-who-has,-without-examination,-been issued-an-electrical-contractor's-certificate-of-competency--prior--to January--1,--1948,-shall-be-eligible-to-receive,-on-or-before-December 31,-1961,-a-journeyman--electrician's--license,--without--examination, upon--payment-of-the-fee-specified-in-section-54-1014,-Idaho-Code.~~ The individual owner of an electrical contracting business may act as his own journeyman electrician provided that he has complied with the provisions of section 54-1002, Idaho Code, pertaining to journeyman electrician. Each electrical contractor in this state shall, upon request of the ~~director~~ administrator, or his authorized agent, furnish a list of journeyman electricians in said electrical contractor's employ.

(3) From and after July 1, 1986, any individual working as an apprentice electrician, as defined in this act, must be registered with the ~~department-of--labor--and--industrial--services~~ division of building safety, as an apprentice electrician, as provided in section 54-1007, Idaho Code; and it shall be unlawful for an individual to work as an apprentice electrician without possessing a current apprentice registration certificate.

SECTION 47. That Section 54-1014, Idaho Code, be, and the same is hereby amended to read as follows:

54-1014. FEES. The following fees shall be charged by the ~~director-of-the-department-of-labor-and-industrial--services~~ administrator of the division of building safety:

Electrical contractor's license	$125.00
Renewal of electrical contractor's license	100.00
Journeyman electrician's license	25.00
Renewal of journeyman electrician's license	15.00
Application ~~certification~~ for license	15.00
Revival of electrical contractor's license	125.00
Revival of journeyman electrician's license	25.00
Apprentice registration and working license	10.00
Specialty electrician's license	25.00
Specialty electrician's license renewal	1~~0~~5.00

Specialty electrician's license revival	25.00
Specialty contractor's license	125.00
Specialty contractor's license renewal	100.00
Specialty contractor's license revival	125.00
Master journeyman electrician's license	35.00
Master journeyman electrician's license renewal	25.00
Master journeyman electrician's license revival	35.00

SECTION 48. That Section 54-1015, Idaho Code, be, and the same is hereby amended to read as follows:

54-1015. "ELECTRICAL BOARD ~~ACCOUNT~~ FUND" ESTABLISHED. All money received by the ~~director~~ administrator, under the terms and provisions of this act, shall be paid into the state treasury monthly, and shall be, by the state treasurer, placed to the credit of ~~an account in the state operating~~ a dedicated fund to be known as the "Electrical Board ~~Account~~ Fund," and all such moneys, hereafter placed in said ~~account~~ fund, are hereby set aside and appropriated to the ~~department of labor and industrial services~~ division of building safety to carry into effect the provisions of this act.

SECTION 49. That Section 54-1017, Idaho Code, be, and the same is hereby amended to read as follows:

54-1017. VIOLATIONS OF ACT A MISDEMEANOR. Any person, partnership, company, firm, association or corporation who shall engage in the trade, business or calling of an electrical contractor or journeyman electrician, without a license as provided for by this act, or who shall violate any of the provisions of this act, or the rules ~~and regulations~~ of the Idaho electrical board or of the ~~director of the department of labor and industrial services~~ administrator of the division of building safety herein provided for, or who shall refuse to perform any duty lawfully enjoined upon him by the ~~director~~ administrator within the prescribed time; or who shall fail, neglect, or refuse to obey any lawful order given or made by the ~~director~~ administrator shall be guilty of a misdemeanor. Each day of such violation shall constitute a separate offense.

SECTION 50. That Section 54-1019, Idaho Code, be, and the same is hereby amended to read as follows:

54-1019. QUALIFICATIONS OF INSPECTORS. The ~~director of the department of labor and industrial services~~ administrator of the division of building safety shall appoint the number of deputy electrical inspectors as may be required for the effective enforcement of the provisions of this chapter. All inspectors shall be skilled in electrical installations with not less than four (4) years of actual experience as a journeyman electrician, shall possess certificates of competency prior to appointment, and shall be fully familiar with the provisions of this chapter and rules ~~and regulations~~ made both by the ~~director~~ administrator and the Idaho electrical board. No inspector employed by the ~~department~~ division of building safety and assigned to the enforcement of the provisions of this chapter shall be engaged or

financially interested in an electrical business, trade, practice or work, or the sale of any supplies connected therewith, nor shall he act as an agent, directly or indirectly, for any person, firm, copartnership, association or corporation so engaged. Inspectors employed by municipalities electing to claim exemption under this chapter must possess the qualifications set forth in this section. Inspectors employed by the ~~department~~ division of building safety shall take and pass, before the end of their probationary period, the general inspector's test administered by the educational testing service, or future tests developed by the educational testing service for that purpose, or such examination developed for similar purposes, and administered by another testing agency, which the Idaho electrical board may select. The board may also promulgate rules relative to the applicability of this provision to existing electrical inspectors with permanent status in the ~~department~~ division.

SECTION 51. That Section 54-2602, Idaho Code, be, and the same is hereby amended to read as follows:

54-2602. EXCEPTIONS. Certificate of competency requirements of this act shall not be deemed to apply to:

(a) Any person who does plumbing work in a single or duplex family dwelling, including accessory buildings, quarters and grounds in connection with such dwelling; provided that such person owns or is a contract purchaser of the premises, and provided further that such person shall comply with the minimum standards~~,~~ and rules ~~and--regulations~~ applicable to plumbing practices provided by this act.

(b) Farm buildings located outside the incorporated limits of any city unless such buildings are connected to a public water or sewer system; and a farm is hereby defined to be an agricultural unit on which the owner or occupant resides and from which the owner or occupant derives his principal income and livelihood.

(c) Logging, mining or construction camps when plumbing installations are made to conform with the recommendations of the department of health and welfare.

(d) Piping systems in industrial processing plants located outside the incorporated limits of any city unless such systems are connected to a public water or sewer system.

(e) Work on plumbing systems on premises owned or operated by an employer who regularly employs maintenance or construction plumbers, provided that alterations, extensions and new construction shall comply with the minimum standards~~,~~ and rules ~~and--regulations~~ applicable to plumbing practices provided by this act.

(f) Nothing contained in this section or any other provision of this code shall be construed or applied to require a sewer contractor, sewage disposal contractor, or any excavating or utility contractor who generally engages in the business of installing, altering or repairing sewers, private and public sewage disposal systems, and water distribution and/or drainage lines outside the foundation walls of any building or structure, to obtain a valid contractor's certificate of competency or to employ only journeymen plumbers possessing a valid journeyman plumber's certificate of competency or registration, or to in any way require that his employees be registered, licensed or

declared competent by the board.

(g) Water treatment installations and repairs when installed in residential or business properties, provided the same when installed, repaired or completed, shall be inspected by a designated, qualified and properly identified agent of the ~~department of labor and industrial services~~ division of building safety as to quality of workmanship and compliance with the applicable provisions of this act.

Any person, firm, co-partnership, association or corporation making water treatment installations and/or repairs in accordance with the provisions of this act shall maintain a surety bond in the amount of two thousand dollars ($2,000).

SECTION 52. That Section 54-2605, Idaho Code, be, and the same is hereby amended to read as follows:

54-2605. IDAHO PLUMBING BOARD. (1) The Idaho plumbing board, referred to as the board, is hereby created and made a part of the ~~plumbing~~ division of ~~the department of labor and industrial services~~ building safety. It shall be the responsibility and duty of the ~~director of the department of labor and industrial services~~ administrator of the division of building safety to administer and enforce the provisions of this act; and the board shall make, promulgate and publish such rules ~~and regulations~~ as may be necessary for carrying out the provisions of this act in order to effectuate the purposes thereof and for the orderly and efficient administration thereof, and except as may be limited or prohibited by law and the provisions of this act, such rules ~~and regulations~~ so made and promulgated shall have the force of statute.

(2) The board shall consist of five (5) members. The members shall be appointed at large by the governor, with power of removal for cause. Members shall be appointed for a term of three (3) years. Whenever a vacancy occurs the governor shall forthwith appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(3) All members of the board shall be United States citizens, residents of this state for not less than two (2) years, and qualified by knowledge, integrity and experience to properly execute the functions of the board. Two (2) members shall be qualified persons representing the public at large; one (1) member shall be an active plumbing contractor with not less than five (5) years experience in the plumbing contracting business; one (1) member shall be an active plumbing contractor with not less than five (5) years in the plumbing contracting business with an additional background of experience in gas piping installations in buildings; and one (1) member shall be a journeyman plumber. All members of the board shall take, subscribe and file with the secretary of state an oath of office in the form, manner and time prescribed by chapter 4, title 59, Idaho Code.

(4) The board shall meet within thirty (30) days after the appointment of all its members and thereafter at such other times as may be expedient and necessary for the proper performance of its duties. At the board's first meeting, the members shall elect one (1) of their number to be chairman. A majority of the board shall constitute a quorum for the transaction of business and not less than two (2) quorum meetings shall be held each year. The board may delegate to

any member, or its chairman or other employees, the power to make investigations and hold hearings at any place it may deem proper, and to report findings to it; and may delegate to its chairman and employees the performance of ministerial functions.

(5) Each member of the board shall be compensated as provided by section 59-509(g), Idaho Code.

SECTION 53. 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~~ division of building safety 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 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 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 54. That Section 54-2607, Idaho Code, be, and the same is hereby amended to read as follows:

54-2607. ~~DIRECTOR--OF DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES~~ ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY -- POWERS AND DUTIES. The ~~director~~ administrator shall exercise such powers and duties as are reasonably necessary to enforce the minimum standards provided in this act, and he may among other things:

(a) Prescribe and establish procedures to effectuate the efficient enforcement of this act not herein prescribed.

(b) Serve as secretary to the Idaho plumbing board.

(c) Appoint licensed staff inspectors who shall be authorized to enter and inspect by and through a properly identified person, at reasonable hours, plumbing and plumbing systems.

(d) Summon witnesses to appear and testify before him on any matter within the provisions of this act. No person shall be required to testify outside the county wherein he resides or where his principal place of business is located. Such summons to testify shall be issued and served in like manner as a subpoena to witness issued from the district court, or in other manner consistent with the procedure of the ~~department--of-labor-and-industrial-services~~ division of building safety. In case any witness shall fail or refuse to appear and testify upon being summoned as herein provided, the clerk of the district court of the county shall upon demand by ~~said-director~~ the administrator or his designated agent, issue a subpoena reciting the demand therefor and summoning the witness to appear and testify at a time and place fixed. Violation of such subpoena or disobedience thereto shall be deemed and punished as a violation of any other subpoena issued from the district court.

(e) Administer oaths and take affirmations of witnesses appearing before him; and have the power to appoint competent persons to issue subpoenas, administer oaths and take testimony. It shall be the duty of the ~~director~~ administrator to give notice to cities which supply sewer service to areas outside their city limits and who have requested in writing such notice from the ~~director~~ administrator of all permits issued relative to sewer installations. The notice shall be given within ten (10) days from the date the permit was requested for such installation. The notice shall contain a map of the physical location of the installation and reference to the date of inspection if the city so requests.

SECTION 55. That Section 54-2608, Idaho Code, be, and the same is hereby amended to read as follows:

54-2608. REVOCATION OF CERTIFICATES OF COMPETENCY -- SUSPENSION -- REFUSAL TO RENEW. The ~~director--of--the--department--of--labor--and industrial--services~~ administrator of the division of building safety shall have on the recommendation of the board the power to revoke, suspend or refuse to issue a renewal of any certificate of competency if the same was obtained through error or fraud, or if the holder thereof is shown to be grossly incompetent or has a second time violated any of the rules prescribed by the board, or as prescribed by this act. Before the ~~director~~ administrator shall refuse to grant a renewal of said certificate to any applicant or shall revoke or suspend any certificate previously granted, he shall hold a hearing giving such applicant or holder of said certificate fifteen (15) days written notice of his intended action by registered mail directed to the applicant or holder at the address given on said certificate or in the application for said certificate, stating generally the basis for his intended action; and the applicant or holder of said certificate shall have the opportunity to produce testimony in his own behalf at a

time and place specified in said notice. The proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code. If the ~~director~~ administrator, after the hearing, shall refuse to grant a renewal of said certificate or shall suspend or revoke any certificate previously granted, said applicant or holder of a certificate may seek judicial review of the ~~director's~~ administrator's final order in accordance with the provisions of chapter 52, title 67, Idaho Code. Any person whose certificate has been revoked may, after the expiration of one (1) year from the date of revocation, but not before, apply for a new certificate of competency.

SECTION 56. That Section 54-2615, Idaho Code, be, and the same is hereby amended to read as follows:

54-2615. CERTIFICATE OF COMPETENCY. Upon the applicant's successful completion of an examination, as certified by the board, he shall be issued a certificate of competency in the form of a card, providing thereon the holder's name, classification for which the applicant was examined, year current, space for the holder's signature, the certificate number, and the signature of the ~~director of the department of labor and industrial services~~ administrator of the division of building safety.

SECTION 57. 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~~ division of building safety a fee in accordance with the following schedule:

~~Initial Fee Renewal~~

	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 58. 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~~ division of building safety, 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.

SECTION 59. That Section 54-2619, Idaho Code, be, and the same is hereby amended to read as follows:

54-2619. MUNICIPAL FEES FOR PERMITS, INSPECTIONS -- EXCEPTIONS. No provision of this act shall deprive incorporated cities, including those specially chartered, from collections of fees from permits and inspections. Notwithstanding the provisions of sections 50-304, 50-306 and 50-606, Idaho Code, no cities, including those specially chartered, shall require occupational license fees from plumbing contractors and journeymen who possess a valid certificate of competency issued by the ~~director of the department of labor and industrial services~~ administrator of the division of building safety, except those cities that have qualified plumbing inspectors.

SECTION 60. That Section 54-2620, Idaho Code, be, and the same is hereby amended to read as follows:

54-2620. PERMITS REQUIRED -- EXCEPTIONS. It shall be unlawful for any person, firm, copartnership, association or corporation to do, or cause or permit to be done, after the adoption of this act, whether acting as principal, agent or employee, any construction, installation, improvement, extension or alteration of any plumbing system in any building, residence or structure, or service lines thereto, in the state of Idaho, without first procuring a permit from the ~~department of labor and industrial services~~ division of building safety authorizing such work to be done, except:

(a) Within the boundaries of incorporated cities, including those specially chartered, where such work is regulated and enforced by an ordinance or code equivalent to this act;

(b) Within such additional area within five (5) miles of the city limits over which such city has elected to exercise jurisdiction relative to building drains and building sewers pursuant to section 50-606, Idaho Code, on buildings, residences and structures being converted from an on-site sewage disposal system to a sewage disposal system supplied by the said city, where such work is regulated and enforced by an ordinance or code equivalent to this act. Cities shall provide the ~~department of labor and industrial services~~ division of building safety written notice of the area over which such jurisdiction will be exercised. No city may exercise such jurisdiction within the limits of another city unless both cities have agreed by ordinance to allow such jurisdiction. For purposes of this act building drain and building sewer will be defined according to the definition found in the uniform plumbing code or as adopted by the board, pursuant to section 54-2601, Idaho Code.

Permits shall be issued only to a person, or to a firm, copartnership, association or corporation represented by a person holding a valid certificate of competency, or to a person who does his own work in a family dwelling as defined in section 54-2602(a), Idaho Code, except that permits shall not be required for plumbing work as defined in section 54-2602(b), (c), and (d), Idaho Code.

Provided, a licensed plumber is hereby authorized, after making application for permit and pending receipt of permit, to proceed and complete improvements or alterations to plumbing systems, when the cost of said improvement or alteration does not exceed the sum of five hundred dollars ($500). Inspection of such work shall be the responsibility of the permit holder pending an official inspection, which

shall be made within sixty (60) days after notification of inspection.

SECTION 61. That Section 54-2624, Idaho Code, be, and the same is hereby amended to read as follows:

54-2624. INSPECTION BY AGENT -- TESTS. All pipes, fittings, valves, vents, fixtures, appliances and appurtenances shall be inspected by a designated, qualified and properly identified agent of the ~~department--of-labor-and-industrial-services~~ division of building safety to insure compliance with provisions of this act. In order to make inspections uniform and complete, the board shall make, promulgate and publish such rules ~~and-regulations~~ as are necessary to insure that any plumbing system has been designed, constructed, installed, improved, extended or altered in accordance with the provisions of this act and in accordance with the rules ~~and-regulations~~ made, promulgated and published by the Idaho plumbing board.

SECTION 62. That Section 54-2626, Idaho Code, be, and the same is hereby amended to read as follows:

54-2626. NOTIFICATION FOR INSPECTION -- FEE FOR REINSPECTION. It shall be the duty of the permit holder to notify the nearest representative of the ~~department-of-labor-and-industrial-services~~ division of building safety at least twelve (12) hours prior to the time of inspection, exclusive of Sundays and holidays, that he will be ready for inspection at a stipulated time. When reinspection is required after the final inspection because of failure to meet requirements of this act, it shall be made at a flat charge not to exceed the cost of reinspection.

SECTION 63. That Section 54-2627, Idaho Code, be, and the same is hereby amended to read as follows:

54-2627. APPOINTMENT OF INSPECTORS -- QUALIFICATIONS -- UNLAWFUL PRACTICES. The ~~director-of-the-department-of-labor-and-industrial-services~~ administrator of the division of building safety shall appoint a chief inspector ~~who-shall-be-the-division-administrator,~~ and such number of deputy inspectors as may be required for the effective enforcement of this act. All inspectors shall be skilled in plumbing installations with not less than five (5) years actual experience, shall possess certificates of competency prior to appointment, and shall be fully familiar with the provisions of this act and rules ~~and--regulations~~ made by both the ~~director~~ administrator and the Idaho plumbing board. No inspector employed by the ~~department~~ division of building safety and assigned to the enforcement of this act shall be engaged or financially interested in a plumbing business, trade, practice or work, or the sale of any supplies connected therewith, nor shall he act as an agent, directly or indirectly, for any person, firm, copartnership, association or corporation so engaged. Inspectors employed by municipalities electing to claim exemption under this act must possess the qualifications set forth in this section.

SECTION 64. That Section 54-2628, Idaho Code, be, and the same is

hereby amended to read as follows:

54-2628. VIOLATION -- MISDEMEANOR. Any person, or a firm, copartnership, association or corporation by and through a member, representative or agent, who shall engage in the business, trade, practice or work of plumbing without a certificate of competency or without registration, or perform work without a permit as provided by this act, or who shall violate any provision of this act or the rules ~~and regulations~~ made by both the ~~director of the department of labor and industrial services~~ administrator of the division of building safety and the Idaho plumbing board herein provided for, or who shall refuse to perform any duty lawfully enjoined upon him by ~~said director~~ the administrator within the prescribed time, or who shall fail, neglect, or refuse to obey any lawful order given or made by the ~~said director~~ administrator shall be guilty of a misdemeanor and shall be subject to a fine of not less than ten dollars ($10.00) or more than three hundred dollars ($300), or to imprisonment in the county jail not to exceed thirty (30) days, or both. Each such violation shall constitute a separate offense.

SECTION 65. That Section 54-2629, Idaho Code, be, and the same is hereby amended to read as follows:

54-2629. ATTORNEY GENERAL -- PROSECUTING ATTORNEYS. It shall be the right and duty of the attorney general or the prosecuting attorneys of the various counties to represent and appear for the people of the state of Idaho and the ~~director of the department of labor and industrial services~~ administrator of the division of building safety in all actions and proceedings involving any question under this act or under any order or act of ~~said director~~ the administrator and perform such other services as required.

SECTION 66. That Section 54-2630, Idaho Code, be, and the same is hereby amended to read as follows:

54-2630. PLUMBING BOARD ~~ACCOUNT~~ FUND CREATED. All money received by the board or the ~~department~~ division of building safety, under the terms and provisions of this act, shall be paid into the state treasury monthly, and shall be, by the state treasurer, placed to the credit of the Idaho plumbing board ~~account~~ fund, which is hereby created ~~in the state operating~~ as a dedicated fund. All such moneys, hereafter placed in said ~~account~~ fund, are hereby set aside and perpetually appropriated to the ~~department of labor and industrial services~~ division of building safety to carry into effect the provisions of this act.

SECTION 67. That Section 67-2312, Idaho Code, be, and the same is hereby amended to read as follows:

67-2312. PUBLIC BUILDINGS SUBJECT TO SAFETY INSPECTION. In addition to the powers and duties with respect to matters of industrial safety now or hereafter vested in the industrial commission and the ~~department of labor and industrial services~~ division of building

safety, the ~~said~~ commission and the ~~said-department~~ division of building safety are each vested with the right of entry and inspection of all public buildings now or hereafter owned or maintained by the state or any official, department, board, commission or agency thereof, for the purpose of ascertaining unsafe or hazardous conditions therein, or in the immediate environs thereof, not only to the state's employees but to inmates therein, attendants thereat, and to the general public.

SECTION 68. That Section 67-2313, Idaho Code, be, and the same is hereby amended to read as follows:

67-2313. INSPECTIONS. At least once in each calendar year and at any time he deems necessary or desirable, and particularly when so directed by the governor, the ~~director-of-the-department-of-labor--and industrial--services~~ administrator of the division of building safety shall inspect, or through designated representatives cause to be inspected, all state public buildings. Any such inspection shall include an appraisal of any and all unsafe or hazardous conditions, including industrial hazards, fire hazards, and hazards to the public particularly to inmates or patients, and attendants at such public buildings and adjoining public grounds.

SECTION 69. That Section 67-2314, Idaho Code, be, and the same is hereby amended to read as follows:

67-2314. REPORT OF INSPECTION. As soon as practicable after each such inspection, the ~~director-of-the-department-of--labor--and--industrial--services~~ administrator of the division of building safety shall make a report in writing of the results disclosed thereby to the official, department, board, commission or agency having custody or direct control of any building so inspected. ~~Copies-of-such-report-shall-also be-transmitted-to-the-governor-and-to-the-industrial-commission~~ If the administrator finds hazardous conditions or unsafe practices, he shall supplement his report with recommendations for their elimination or correction.

SECTION 70. That Section 67-2315, Idaho Code, be, and the same is hereby repealed.

SECTION 71. That Section 67-2316, Idaho Code, be, and the same is hereby amended to read as follows:

67-2316. DUTY OF AGENCY IN CONTROL OF BUILDINGS. The official or agency in direct control of any state public building, within twenty (20) days after receipt of such report and recommendations of the ~~director-of-the-department-of-labor-and-industrial--services~~ administrator of the division of building safety, shall in writing notify the ~~department~~ division of compliance with such recommendations or correction otherwise of such hazards, or of his or its reason for failing so to do.

SECTION 72. That Section 67-2317, Idaho Code, be, and the same is hereby amended to read as follows:

67-2317. HEARING AND DECISION OF DISPUTED ISSUES. Upon the failure or refusal of the official or agency in charge of any state public building to comply with the recommendations of the ~~director--of--the department-of-labor-and-industrial-services~~ administrator of the division of building safety, the ~~director~~ administrator shall apply to the industrial commission to hold a hearing, pursuant to the procedural provisions of section 72-722, Idaho Code, so far as the same may be applicable.

The industrial commission is empowered to conduct such hearing and render a decision as in cases of disputes in matters involving industrial safety. The commission shall transmit a copy of its decision to the official or agency in direct control of the public building, to the ~~department-of-labor-and-industrial-services~~ division of building safety, and to the governor.

SECTION 73. That Section 67-2318, Idaho Code, be, and the same is hereby amended to read as follows:

67-2318. EMERGENCY EXPENDITURES. Whenever the governor shall direct an investigation under the provisions of this act and it appears to him that the ~~department-of-labor--and--industrial--services~~ division of building safety is in ~~emergent~~ emergency need of the consultant services of a specialist in fire prevention methods or in corrective structural procedures, he is authorized in his discretion to pay from the appropriation herein made or from any other emergency or disaster relief fund available to him, the expense of such consultant services.

If it appears to the satisfaction of the governor that the official or agency in direct control of a public building is unable to comply with any recommendation of the ~~department-of-labor-and-industrial-services~~ division of building safety because of lack of appropriated funds, the governor may order payment in whole or in part of expenses involved in the elimination or amelioration of hazards from the money herein appropriated or from any appropriation made available to him for emergency or disaster relief.

SECTION 74. That Section 72-517, Idaho Code, be, and the same is hereby amended to read as follows:

72-517. COOPERATION WITH OTHER AGENCIES. The commission shall have the authority to enter into cooperative agreements with the director of the department of labor ~~and--industrial--services;~~, the administrator of the division of building safety, the director of the department of health and welfare, ~~the-director-of--the--department--of employment;~~ state board of education, state board of vocational education, state nuclear energy commission, and with other state agencies and with their successors, and with federal and private agencies, and to cooperate with programs sponsored by all such agencies to facilitate the carrying out of the purposes of this law.

Approved March 20, 1996.

CHAPTER 422
(H.B. No. 873)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3029, IDAHO CODE, TO CLARIFY THAT INCOME TAX PAID BY A SUBCHAPTER S CORPORATION ON BEHALF OF THE INDIVIDUAL SUBCHAPTER S CORPORATION SHAREHOLDER MAY BE CREDITED AGAINST THAT INDIVIDUAL'S IDAHO TAX LIABILITY AS IF THE TAX HAD BEEN PAID DIRECTLY BY THE SHAREHOLDER; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

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

63-3029. CREDIT FOR INCOME TAXES PAID ANOTHER STATE OR TERRITORY. (a) Whenever a resident individual has become liable for income tax to another state upon his taxable income, or any part thereof, earned while domiciled in this state, which income is derived from sources without this state and subject to taxation under this chapter, the amount of income tax payable by him under this chapter shall be credited with the income tax so payable by him to such other state or territory, and shall also be credited with the income tax, or any franchise or excise tax measured by income, payable to such other state or territory by a subchapter S corporation of which the individual is a shareholder (to the extent of the individual's pro rata share of the ownership of the subchapter S corporation, as allocated in the case of partial year ownership on the same basis as allocated pursuant to the Internal Revenue Code). "Income tax to another state" includes only a tax imposed by one of the United States, a possession of the United States, a political subdivision of any of the foregoing, or by the District of Columbia. The credit granted shall be limited to the proportion of the tax computed under this chapter, but before the allowance of this credit, which the adjusted gross income from such other state or territory bears to total adjusted gross income; provided, however, that such credit shall not be in excess of the actual tax payable to such other state or territory and that such adjusted gross income shall reflect additions and subtractions required by this act.

(b) The credit shall not be allowed if such other state allows a credit against taxes imposed by such state for taxes paid or payable under this act.

(c) To substantiate the credit allowed under this section, the state tax commission may require a copy of any receipt showing payment of income taxes to another state or a copy of any return or returns filed with such other state or territory, or both.

(d) A part-year resident is entitled to a credit, determined in the manner prescribed by the state tax commission, for income taxes paid to another state, as defined in subsection (a) of this section, in regard to income which is:

(1) Earned while the taxpayer is domiciled in this state; and

(2) Subject to tax in such other state.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1992.

Approved March 21, 1996.

CHAPTER 423
(S.B. No. 1526)

AN ACT
RELATING TO PROVISIONS FOR CONSERVATOR OF A MINOR FROM AGE EIGHTEEN TO AGE TWENTY-ONE; AMENDING PART 4, CHAPTER 5, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-5-433, IDAHO CODE, TO PROVIDE PROVISIONS FOR APPOINTING A CONSERVATOR OF A MINOR FROM AGE EIGHTEEN TO TWENTY-ONE YEARS.

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

SECTION 1. That Part 4, Chapter 5, Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 15-5-433, Idaho Code, and to read as follows:

15-5-433. PROVISIONS FOR CONSERVATOR OF MINOR FROM AGE EIGHTEEN TO AGE TWENTY-ONE. If so stated in the order appointing such conservator, or in any supplemental order entered prior to the time the minor reaches the age of eighteen (18) years, the conservator for a minor (said minor being hereinafter referred to as the "protected person") shall act until the protected person reaches the age of twenty-one (21) years, subject to the following provisions:

(a) The court may state in such order special terms and conditions for such conservator when acting while the protected person is of the age of eighteen (18) years or more, but less than the age of twenty-one (21) years;

(b) Upon reaching the age of eighteen (18) years, the protected person may, at any time thereafter, petition the court to terminate or modify the conservatorship prior to the protected person attaining the age of twenty-one (21) years. Said petition must be based on the ability of the minor to adequately manage his or her own financial affairs, demonstrated by appropriate evidence, including:

(1) Demonstrated ability to manage his or her financial affairs;

(2) Submission of budgets and other appropriate similar documents;

(3) Employment history;

(4) Educational history;

(5) Criminal history; and

(6) Other relevant evidence;

(c) The burden of showing such financial management ability shall be upon the protected person and must be demonstrated by clear and convincing evidence thereof; and

(d) The court may, in its discretion, order reports to be filed by the conservator, and/or a court visitor, and/or may appoint a guardian ad litem for the protected person.
The original determination of whether to extend the conservatorship to age twenty-one (21) years shall be within the discretion of the court and may be based on such factors as the court deems to be relevant to such determination.

Approved March 21, 1996.

CHAPTER 424
(S.B. No. 1409)

AN ACT

RELATING TO BAIL; AMENDING SECTION 19-2906, IDAHO CODE, TO REVISE THE NATURE OF BAIL AFTER CONVICTION AND UPON AN APPEAL; AMENDING SECTION 19-2909, IDAHO CODE, TO REPLACE AN ARCHAIC TERM, TO REVISE THE FORM OF THE UNDERTAKING OF BAIL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-2916, IDAHO CODE, TO PROVIDE FOR DISCRETION OF THE COURT AND REVISE THE PROCEDURES AND FORM FOR UNDERTAKING AFTER INDICTMENT; AMENDING SECTION 19-2918, IDAHO CODE, TO PROVIDE THAT AFTER A DEFENDANT HAS BEEN ADMITTED TO BAIL, THE COURT SHALL ORDER THE DEFENDANT COMMITTED TO ACTUAL CUSTODY UNLESS THE DEFENDANT GIVES BAIL IN AN INCREASED AMOUNT IF BAIL HAS BEEN INCREASED; AMENDING SECTION 19-2924, IDAHO CODE, TO REVISE PROCEDURES FOR SURRENDER OF A DEFENDANT BY THE BAIL; AMENDING SECTION 19-2926, IDAHO CODE, TO DELETE THE NOTICE REQUIREMENT TO THE PROSECUTING ATTORNEY AND TO PROVIDE FOR A COPY OF THE COURT'S ORDER TO BE DELIVERED TO THE PROSECUTING ATTORNEY; AMENDING SECTION 19-2927, IDAHO CODE, TO REVISE PROCEDURES FOR FORFEITURE OF BAIL; AND AMENDING SECTION 19-2936, IDAHO CODE, TO REVISE THE PROCEDURES AND FORM OF UNDERTAKING FOR BAIL ON RECOMMITMENT OF THE DEFENDANT.

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

SECTION 1. That Section 19-2906, Idaho Code, be, and the same is hereby amended to read as follows:

19-2906. NATURE OF BAIL. (1) If the offense is bailable, the defendant may be admitted to bail before conviction:

~~1.~~(a) For his appearance before the magistrate on the examination of the charge, before being held to answer.

~~2.~~(b) To appear at the court to which the magistrate is required to return the depositions upon the defendant being held to answer after examination.

~~3.~~(c) After indictment, either before the bench warrant is issued for his arrest or upon any order of the court committing him or enlarging the amount of bail, or upon his being surrendered by his bail to answer the indictment in the court in which it is found, or to which it may be transferred for trial.

(2) After conviction, and upon an appeal:

~~1.~~(a) If the appeal is from a judgment imposing a fine only, on the undertaking of bail, that he will pay the same, or such part of it as the appellate court may direct, if the judgment is affirmed, modified, or the appeal is dismissed.

~~2.~~(b) If judgment of imprisonment has been given, ~~that he will surrender himself in execution of the judgment,~~ upon its being affirmed or modified, or upon the appeal being dismissed; or that in case the judgment be reversed, and that the cause be remanded for a new trial, that he will appear in the court to which said cause may be remanded, and submit himself to the orders and process thereof.

SECTION 2. That Section 19-2909, Idaho Code, be, and the same is hereby amended to read as follows:

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

An order having been made on the .... day of ...., 19.., by A.B., a ~~justice of the peace~~ judge of .... county (or as the case may be), that C.D. be held to answer upon a charge of (stating briefly the nature of the offense), upon which he has been admitted to bail in the sum of .... dollars; we, E.F. and G.H. (stating their place of residence), hereby undertake that the above named C.D. will appear and answer the charge above mentioned in whatever court it may be prosecuted, and will at all times hold himself amenable to the orders and process of the court, and if convicted, will appear for pronouncement of judgment ~~and render himself in execution thereof~~, or if he fails to perform ~~either~~ any of these conditions, that we will pay to the people of the state of Idaho the sum ~~of .... dollars (inserting the sum in which the defendant is admitted to bail)~~ set forth above.

SECTION 3. That Section 19-2916, Idaho Code, be, and the same is hereby amended to read as follows:

19-2916. UNDERTAKING AFTER INDICTMENT -- FORM. The bail must be put in by a written undertaking, executed by two (2) sufficient sureties (with or without the defendant, in the discretion of the court ~~or magistrate~~), and acknowledged before the court ~~or magistrate~~, in substantially the following form:

An indictment having been found on .... day of ...., 19.., in the district court of the county of ...., charging A.B. with the crime of .... (designating it generally), and he having been admitted to bail in the sum of .... dollars, we, C.D. and E.T., of .... (stating their place of residence), hereby undertake that the above named A.B. will appear and answer the indictment above mentioned, in whatever court it may be prosecuted, and will at all times render himself amenable to the orders and process of the court, and if convicted, will appear for pronouncement of judgment ~~and render himself in execution thereof~~; or, if he fails to perform ~~either~~ any of these conditions, that we will pay to the people of the state of Idaho the sum ~~of .... dollars (inserting the sum in which the defendant is admitted to bail)~~ set

forth above.

SECTION 4. That Section 19-2918, Idaho Code, be, and the same is hereby amended to read as follows:

19-2918. INCREASE OR REDUCTION OF BAIL. After a defendant has been admitted to bail ~~upon--an--indictment~~, the court in which the charge is pending may, upon good cause shown, either increase or reduce the amount of bail. If the amount be increased, the court ~~may~~ shall order the defendant to be committed to actual custody, unless he give bail in such increased amount. If application be made by the defendant for a reduction of the amount, notice of the application must be served upon the prosecuting attorney.

SECTION 5. That Section 19-2924, Idaho Code, be, and the same is hereby amended to read as follows:

19-2924. SURRENDER OF DEFENDANT BY BAIL. At any time before the forfeiture of their undertaking, the bail may surrender the defendant in their exoneration, or he may surrender himself to the officer in whose custody he was committed at the time of giving bail, or to the county sheriff where the action is pending, in the following manner:

1. A ~~certified-copy-of-the-undertaking-of-the-bail~~ certificate of surrender, executed by the bail, must be delivered to the officer, who must also attach thereto his signature, the month, day, year and time of day as evidence of surrender and detain the defendant in his custody thereon as upon a commitment~~,-and-by-a-certificate-in-writing acknowledge-the-surrender~~. The certificate of surrender shall contain the legal caption of the action in which the undertaking was given, including the name of the defendant, case number, name and address of the bail, and shall clearly state that the bond is being revoked by the bail.

2. ~~Upon--the--undertaking--and--the-certificate-of-t~~The receiving officer~~,~~ shall, the next judicial day, file with the court in which the action or appeal is pending ~~may,-upon-notice-of-five-(5)-days~~ the certificate of surrender, and shall deliver a copy of the same to the county prosecuting attorney. ~~of-the-county,-with-a-copy-of-the-undertaking-and-a-certificate,~~ The court shall thereupon order that the bail be exonerated~~,-and-on-filing-the-order-and-the-papers-used-on-the application,-they-are-exonerated-accordingly~~.

SECTION 6. That Section 19-2926, Idaho Code, be, and the same is hereby amended to read as follows:

19-2926. RETURN OF DEPOSIT ON SURRENDER. If money has been deposited instead of bail, and the defendant at any time before the forfeiture thereof surrenders himself to the officer to whom the commitment was directed in the manner provided in the last two (2) sections, the court must order a return of the deposit to the party posting the deposit, upon producing the certificate of the officer showing the surrender~~,-and-upon-a-notice-of--five--(5)--days--to--the--prosecuting attorney,--with-a-copy-of-the-certificate~~. A copy of the court's order shall be delivered to the prosecuting attorney.

SECTION 7. That Section 19-2927, Idaho Code, be, and the same is hereby amended to read as follows:

19-2927. FORFEITURE OF BAIL. If, without sufficient excuse, the defendant neglects to appear ~~for arraignment or for trial or judgment, or~~ before the court upon any ~~other~~ occasion when his presence ~~in court may be lawfully required, or to surrender himself in execution of the judgment,~~ has been ordered the court must immediately direct the fact to be entered upon its minutes, ~~and~~ order the forfeiture of the undertaking of bail, or the money deposited instead of bail, as the case may be, ~~is thereupon declared forfeited~~ and order the issuance of a bench warrant for the arrest of the defendant. The clerk shall mail written notice within five (5) days of the forfeiture for failure to appear to the last known address of the person posting the undertaking of bail. A failure to give timely notice shall exonerate the bail or undertaking. If at any time within ninety (90) days after such entry in the minutes, the defendant appears and satisfactorily excuses his neglect, the court ~~may~~ shall direct the forfeiture of the undertaking or the deposit to be ~~discharged upon such terms as may be just~~ exonerated.

If within ninety (90) days of the date of forfeiture, a person, other than the defendant, who has provided bail for the defendant, ~~brings~~ surrenders the defendant ~~before the court, the court shall direct that the forfeiture of~~ to any Idaho peace officer, the undertaking of bail or deposits ~~be discharged~~ are thereby exonerated.

The court which has forfeited the undertaking of bail, or the money deposited instead of bail, may, before remittance of the forfeiture, and with the written consent of the person posting the same, set aside the forfeiture and reinstate the undertaking of bail or money deposited instead of bail.

SECTION 8. That Section 19-2936, Idaho Code, be, and the same is hereby amended to read as follows:

19-2936. BAIL ON RECOMMITMENT -- FORM OF UNDERTAKING. When bail is taken upon the recommitment of the defendant, the undertaking must be in substantially the following form:

An order having been made on the .... day of ...., 19.., by the court (naming it), that A.B. be admitted to bail in the sum of .... dollars in an action pending in that court against him in behalf of the state of Idaho, upon an (information, presentment, indictment, or appeal, as the case may be), we, C.D. and E.F., of (stating their places of residence), hereby undertake that the above named A.B. will appear in that or any other court in which his appearance may be lawfully required upon that (information, presentment, indictment, or appeal, as the case may be), and will at all times render himself amenable to its orders and process and appear for pronouncement of judgment ~~and surrender himself in execution thereof~~; or if he fails to perform ~~either~~ any of these conditions, that we will pay to the state of Idaho the sum ~~of ..... dollars (insert the sum in which defendant is admitted to bail.)~~ set forth above.

Approved March 21, 1996.

CHAPTER 425
(H.B. No. 695, As Amended)

AN ACT

RELATING TO THE CLEAN WATER TRUST FUND ACT; AMENDING SECTION 41-4911, IDAHO CODE, TO ADD CORRECT TERMINOLOGY AND TO PROVIDE THAT A PETROLEUM STORAGE TANK SHALL BE ELIGIBLE FOR INSURANCE IF CONTAMINATION CAUSED BY OR RELEASED BY OR FROM THE TANK HAS BEEN CLEANED UP OR A PLAN FOR CLEANUP IS BEING IMPLEMENTED; AMENDING SECTION 41-4911A, IDAHO CODE, TO PROVIDE THAT A TANK ON A SITE WHERE CONTAMINATION IS PRESENT MAY BE ELIGIBLE FOR INSURANCE IF THE CONTAMINATION WAS NOT CAUSED BY THE TANK FOR WHICH COVERAGE IS SOUGHT, TO PROVIDE THAT THE CONTAMINATION CAUSED BY OR RELEASED BY OR FROM THE TANK MAY BE DECLARED A THREAT TO PUBLIC HEALTH, AND TO PROVIDE THAT A CONTRACT OF INSURANCE ISSUED FOR A TANK WHICH DID NOT CAUSE THE CONTAMINATION SHALL CONTAIN SPECIFIED EXCLUSIONS FOR CORRECTIVE ACTIONS COSTS OR COMPENSATION TO THIRD PARTIES ON ACCOUNT OF THE CONTAMINATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 41-4911, Idaho Code, be, and the same is hereby amended to read as follows:

41-4911. STORAGE TANKS ELIGIBLE FOR INSURANCE. (1) Eligible storage tanks are those tanks that meet all of the following criteria:

(a) Appropriate fees required in section 41-4908, Idaho Code, or section 41-4910A, Idaho Code, have been paid;

(b) The tank, if an underground storage tank, is in compliance with applicable federal and state underground storage tank <u>rules and</u> regulations;

(c) The tank is used only for storage of petroleum products;

(d) The tank, if an underground storage tank, passes a tank tightness test;

(e) The tank, if an above ground storage tank, is in compliance with state and federal <u>rules and</u> regulations including the uniform fire code. If an above ground tank is exempt from state or federal <u>rules and</u> regulations and/or the uniform fire code by virtue of its being installed prior to the effective date of such <u>rules and</u> regulations or the uniform fire code, such tank is not eligible unless it passes a tank tightness test;

(f) The tank, if a farm tank or residential tank, is in compliance with any applicable state or federal <u>rules and</u> regulations;

(g) Any contamination <u>caused by or released by or from the tank</u> has been cleaned up, or a plan for cleanup or removal approved by the Idaho department of health and welfare, division of environmental quality, is being implemented; provided, however, that the trust fund shall not pay for any costs associated with prior contamination.

(2) Any tank which is a part of a refiner's terminal or a tank directly supplied by a pipeline shall not be eligible.

SECTION 2. That Section 41-4911A, Idaho Code, be, and the same is hereby amended to read as follows:

41-4911A. STORAGE TANKS LOCATED ON SITES WHERE CONTAMINATION IS PRESENT. (1) Notwithstanding the provisions of section 41-4911(1)(g), Idaho Code, an owner or operator of a petroleum storage tank or tanks located on a site where contamination is present may be eligible for insurance covering the petroleum storage tanks located on that site if the contamination does not pose a threat to public health, safety or the environment, or was not caused by or released by or from the tank, or if multiple tanks are present on the site, any one (1) of the tanks, for which insurance coverage is sought; provided, however, that the trust fund shall not pay for any corrective action costs or compensation to third parties for bodily injury or property damage arising from the prior contamination present at the site.

(2) Any contamination caused by or released by or from the tank or tanks which may migrate off-site; contaminate ground water; exceed federal or state standards, guidelines, criteria or contaminant levels for ground water or drinking water; or pose a fire, explosion or safety hazard may be deemed by the administrator to present a threat to public health, safety or the environment. An owner or operator of ~~a~~ such petroleum storage tank ~~located on a site where such contamination is present~~ or tanks will not be eligible for insurance covering the petroleum storage tanks located on that site unless the contamination has been cleaned up or a plan for cleanup or removal approved pursuant to section 41-4911(1)(g), Idaho Code, is being implemented.

(3) Contracts of insurance issued to an owner or operator of a petroleum storage tank located on a site where contamination is present and where the administrator has determined that the contamination does not pose a threat to public health, safety or the environment, or was not caused by or released by or from the tank or tanks shall exclude from coverage corrective action costs and compensation to third parties for bodily injury or property damage arising out of the prior contamination present at the site.

SECTION 3. This act shall be in full force and effect on and after July 1, 1997.

Approved March 21, 1996.

CHAPTER 426
(H.B. No. 749)

AN ACT

RELATING TO THE NUMBER OF DISTRICT JUDGES AND THE RESIDENT CHAMBERS OF EACH DISTRICT JUDGE IN THE THIRD JUDICIAL DISTRICT; AMENDING SECTION 1-804, IDAHO CODE, TO PROVIDE THAT THE THIRD JUDICIAL DISTRICT SHALL HAVE ONE MORE DISTRICT JUDGE WITH RESIDENT CHAMBERS IN CANYON COUNTY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 1-804, Idaho Code, be, and the same is hereby amended to read as follows:

1-804. THIRD DISTRICT -- NUMBER OF JUDGES -- RESIDENT CHAMBERS. (1) The third judicial district shall consist of the counties of Adams, Washington, Payette, Gem, Canyon and Owyhee.

(2) The third judicial district shall have ~~four~~ five (~~4~~5) district judges.

(3) Resident chambers of the district judges of the third judicial district shall be established as follows:

(a) One (1) resident chambers shall be established in Washington or Payette County.

(b) ~~Three~~ Four (~~3~~4) resident chambers shall be established in Canyon County.

SECTION 2. This act shall be in full force and effect on and after January 1, 1997.

Approved March 21, 1996.

CHAPTER 427
(H.B. No. 780, As Amended in the Senate)

AN ACT

RELATING TO RATES FOR OFFICIAL NOTICES; AMENDING SECTION 60-105, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN RATES FOR FIRST AND SUBSEQUENT INSERTIONS AND FOR BOTH STRAIGHT-SET AND TABLE OR FIGURE MATTER; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 60-105, Idaho Code, be, and the same is hereby amended to read as follows:

60-105. RATES FOR OFFICIAL NOTICES. The rate to be charged for all official notices required by law to be published in any newspaper in this state, by any state, county, municipal official or other person, shall be as follows: ~~five~~ six cents (~~5~~6¢) for each pica in a column line for the first insertion and ~~four~~ five cents (~~4~~5¢) for each pica in a column line for each subsequent insertion. For table and figure matter, the rate shall be ~~six~~ seven cents (~~6~~7¢) for each pica in a column line for the first insertion, and ~~four~~ five cents (~~4~~5¢) for each pica in a column line for each subsequent insertion. In the event that a column line ends in a one-half (1/2) pica measurement, the rate for such one-half (1/2) pica shall be one-half (1/2) the rate established for a full pica for the type of matter set forth herein. For purposes of this section, the type used shall not be smaller than 7 point nor greater than 8 point.

SECTION 2. This act shall be in full force and effect on and after January 1, 1997.

Approved March 21, 1996.

CHAPTER 428
(H.B. No. 580, As Amended)

AN ACT

RELATING TO REGISTRATION OF MOTOR VEHICLES; AMENDING SECTION 49-401A, IDAHO CODE, TO PERMIT A FLEET OF MOTOR VEHICLES TO BE REGISTERED WITH THE TRANSPORTATION DEPARTMENT, TO PROVIDE FOR REGISTRATION PROCEDURES AND TO DEFINE TERMS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-401A, Idaho Code, be, and the same is hereby amended to read as follows:

49-401A. OWNER TO SECURE REGISTRATION FROM A COUNTY ASSESSOR OR THE DEPARTMENT -- FLEET REGISTRATION. (1) Except as provided in subsection (4) of this section, e~~E~~very owner of a motor vehicle, trailer or semitrailer who intends to operate the vehicle upon any highway in this state shall before the same is so operated, apply to a county assessor and obtain registration for vehicles in sections 49-402(1) through (5), 49-402A, 49-402B, 49-416(1) and 49-422, Idaho Code. All others shall be obtained from the department except as provided in subsection (2) of this section. Owners of vehicles specified in section 49-426, Idaho Code, are exempt from the provisions of this section. Owners of vehicles operating on a temporary basis as provided in sections 49-431(3), 49-432 and 49-433, Idaho Code, are exempt from the provisions of this section to the extent that the temporary permits in use are unexpired.

(2) Commercial vehicles in excess of twenty-six thousand (26,000) pounds gross weight, farm and noncommercial vehicles in excess of sixty thousand (60,000) pounds gross weight and all vehicles registered under section 49-435, Idaho Code, shall be registered by the department. Except as provided in subsection (4) of this section, a~~A~~ll other commercial, farm and noncommercial vehicles and the vehicles in paragraphs (a), (b), and (c), shall be registered by the county assessor.

(a) Motor vehicles equipped primarily to haul passengers on a commercial basis, doing strictly an intrastate business, and having gross weights of twenty-four thousand (24,000) pounds or less.

(b) Any farm vehicle or combination of vehicles where each vehicle or combination of vehicles shall not exceed a gross weight of sixty thousand (60,000) pounds.

(c) Nonresident vehicles or combination of vehicles owned by transient labor used in hauling unprocessed agricultural products for hire and not exceeding sixty thousand (60,000) pounds gross weight shall register their vehicle for the appropriate gross

weight scale for the annual fee if registered on or before June 30, and for one-half (1/2) the annual fee if not registered until on or after July 1 of any year, with the assessor of the county in which the owner resides.

(3) Except as provided in subsection (4) of this section, commercial, farm and noncommercial vehicles of any weight doing strictly an intrastate business may be registered by the county assessor by mutual agreement between the department and the county.

(4) (a) Every person having a fleet of ten (10) or more commercial vehicles, noncommercial vehicles or farm vehicles, or any combination thereof, required to be registered pursuant to this title may elect to register such vehicles with the department as a fleet by filing an application with the department which shall contain a description and identification of each vehicle in the fleet which is to be operated in this state during the registration year for which registration is requested; and, as determined by the department, the vehicle unit number of each such vehicle as assigned by the fleet operator, and such other information pertinent to vehicle registration as the department may require.

(b) The department shall determine the total amount necessary to register each and every vehicle for which registration is requested pursuant to this subsection based on the regular annual fees prescribed for such vehicle pursuant to this title.

(c) A registration card shall be issued for each registered vehicle appropriately identifying it, which card shall be carried in or upon the vehicle identified at all times.

(d) Vehicles acquired and added to the fleet after the commencement of the registration year and which require registration shall be registered upon payment of the annual fee if registered within the first six (6) month period during which the fleet is annually registered and one-half (1/2) the annual fee if registered after the first six (6) month period during which the fleet is annually registered. If any vehicle is withdrawn from the fleet during the period for which it is registered, the fleet operator shall so notify the department on appropriate forms to be prescribed by the department. The department may require the surrender to the department of registration cards and other identification devices which have been issued with respect to the vehicle as the department may deem advisable.

(e) The registration period for vehicles registered pursuant to this subsection shall be for a twelve (12) month period. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of this subsection.

(f) The term "fleet" as used in this subsection shall mean a group of vehicles owned by or operated under the unified control of one (1) person.

SECTION 2. This act shall be in full force and effect on and after January 1, 1997.

Approved March 21, 1996.

CHAPTER 429
(S.B. No. 1304, As Amended in the House)

AN ACT

RELATING TO CHILD SUPPORT ENFORCEMENT; AMENDING TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 7, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE FINDINGS, TO DEFINE TERMS, TO PROVIDE GROUNDS FOR SUSPENSION OF A LICENSE, TO DEFINE JURISDICTION FOR SUSPENSION OF A LICENSE, TO PROVIDE FOR COMMENCEMENT OF JUDICIAL PROCEEDING FOR SUSPENSION OF LICENSE, TO PROVIDE NOTICE, TO PROVIDE COMMENCEMENT OF ADMINISTRATION PROCEEDINGS BY THE DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE CONFIRMATION OF NONLICENSURE, TO PROVIDE A HEARING TO CONTEST SUSPENSION OF LICENSE OR LICENSES, TO PROVIDE FOR AN ORDER SUSPENDING A LICENSE, TO PROVIDE FOR DEFAULT, TO PROVIDE FOR ACTION BY THE LICENSING AUTHORITY, TO PROVIDE FOR VACATING OR STAYING AN ORDER SUSPENDING A LICENSE, TO PROVIDE PROCEEDINGS TO REINSTATE THE SUSPENSION, TO PROVIDE FEES AND PENALTIES, TO PROVIDE FOR COOPERATION BETWEEN AGENCIES, TO PROVIDE A FINAL ORDER OF SUSPENSION; AND TO PROVIDE AN EFFECTIVE DATE.

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

SECTION 1. That Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 14, Title 7, Idaho Code, and to read as follows:

CHAPTER 14
FAMILY LAW LICENSE SUSPENSIONS

7-1401. STATEMENT OF LEGISLATIVE INTENT. The legislature of the state of Idaho finds that the remedy of suspension of a wide variety of licenses is needed to increase the effectiveness of enforcement of child support orders, compliance with subpoenas in paternity and child support cases, and compliance with orders for visitation with minor children. The legislature intends that there be no exceptions to the licenses, as defined in this chapter, that are the subject of suspension, in order to promote the well-being of Idaho's children.

7-1402. DEFINITIONS. (1) "Child support order" means a legally enforceable obligation, issued by a court or administrative body, assessed against an individual for the support of a child, which shall include medical care, health insurance premiums for the child, child care expenses and any amount owing under an order for support during a period in which public assistance was expended.

(2) "Current support" means the amount owing for the present month pursuant to a child support order, excluding amounts ordered to satisfy a delinquency.

(3) "Delinquency" means, for purposes of this chapter, the amount of unpaid support that has accrued from the date a child support order is entered, excluding the present month, in an amount equal to or greater than the total support owing for at least ninety (90) days, or

two thousand dollars ($2,000), whichever is less.

(4) "Department" means the Idaho department of health and welfare.

(5) "License" means a license, certificate, permit or other authorization that:

(a) Is issued by a licensing authority pursuant to any provision of Idaho Code;

(b) Is subject to suspension, withdrawal, revocation, forfeiture, termination, or an action equivalent to any of these, by the issuing licensing authority;

(c) A person must obtain to practice or engage in any business, occupation or profession, operate a motor vehicle, carry a concealed weapon, or engage in any recreational activity, including hunting or fishing, for which a license or permit is required; and

(d) Does not constitute a property interest.

(6) "Licensee" means any person who possesses a valid license in active status or who has a legal right or privilege to activate or receive a license.

(7) "Licensing authority" means a department, commission, board, office, agency or other unit of the state or political subdivision that issues a license.

(8) "Obligee" means any person, state agency or local child support registry entitled by order to receive child support payments.

(9) "Obligor" means any person obligated by order to pay child support.

7-1403. GROUNDS FOR SUSPENSION OF A LICENSE. In addition to any other basis provided by Idaho law for suspension of a license, a licensee is subject to suspension of a license if the licensee:

(1) Is an obligor who has a delinquency as defined in section 7-1402(3), Idaho Code;

(2) Has failed to comply with a subpoena in a paternity or child support proceeding; or

(3) Has failed to comply with an order providing for visitation with a minor child.

7-1404. JURISDICTION FOR SUSPENSION OF A LICENSE. (1) Upon petition of an obligee of a child support order, a person entitled to visitation with a minor child pursuant to court order, or the department of health and welfare, a court may issue an order suspending a license on any of the grounds provided in section 7-1403, Idaho Code.

(2) Upon notification by the department of a child support delinquency, a licensing authority shall initiate proceedings to suspend a license in accordance with its statutory process, petition the court, or refer the matter to the department to initiate proceedings for suspension of the license in accordance with the requirements of this chapter. Upon referral, or if the licensing authority takes no action within thirty (30) days after notification of the delinquency by the department, the department is authorized to commence a license suspension proceeding under this chapter. The licensing authority shall notify the department of all action taken in response to the notification of the delinquency.

(3) The department may commence an administrative proceeding

under this chapter to suspend a license for failure to comply with a subpoena in a paternity or child support proceeding.

(4) More than one (1) license may be the subject of a suspension proceeding under this chapter.

(5) An order issued pursuant to this chapter does not prevent the obligee, department, or individual entitled to visitation under a court order, from seeking any other remedy provided by law or from seeking additional relief under this chapter.

7-1405. COMMENCEMENT OF JUDICIAL PROCEEDING FOR SUSPENSION OF LICENSE. (1) A petition for suspension of a license may be commenced in any state court of competent jurisdiction. The petition shall allege:

(a) The name and, if known, social security number of the licensee;

(b) The type or types of license or licenses the licensee is believed to hold and the name of each licensing authority; and

(c) The amount owed under a child support order, the amount of support paid and the amount of the delinquency, the failure to comply with a subpoena in a paternity or child support proceeding, or the manner in which a licensee has failed to comply with an order for visitation.

(2) A petition to suspend a license for a child support delinquency shall include a certified copy of the record of child support payments maintained by the department or local child support registry.

7-1406. NOTICE. Upon commencement of a proceeding for suspension of a license under this chapter, the court shall notify the licensee:

(1) Of the licensee's right to a hearing;

(2) That the licensee has twenty-one (21) days after service to request a hearing;

(3) That the license will be suspended if there is no timely request for a hearing or the licensee fails without good cause to appear for a scheduled hearing; and

(4) That the license will not be suspended if the licensee pays the delinquency and the current support obligation in full; demonstrates compliance with a subpoena in a paternity or child support proceeding; demonstrates compliance with an order for visitation; pays the current support obligation in full and enters into a reasonable schedule for repayment of any child support delinquency; or establishes good cause why the license should not be suspended.

7-1407. COMMENCEMENT OF ADMINISTRATIVE PROCEEDING BY THE DEPARTMENT. The department shall commence an administrative proceeding to suspend a license by serving the licensee a notice that contains the information required for the petition and notice in sections 7-1405 and 7-1406, Idaho Code. Service of the notice may be by personal service or certified mail.

7-1408. CONFIRMATION OF NONLICENSURE. The petitioner or department shall notify the appropriate licensing authority of the commencement of a judicial or administrative proceeding to suspend a license. Notwithstanding any provision of the Idaho public records act, chapter

3, title 9, Idaho Code, or other statute or ordinance, the licensing authority shall then notify the petitioner or the department if the individual named in the petition is not a licensee.

7-1409. HEARING TO CONTEST SUSPENSION OF LICENSE OR LICENSES. (1) A request for a hearing shall be filed with the court or department by the licensee not later than twenty-one (21) days after the date of service of the notice. If a request for hearing is timely filed, the court or department shall promptly schedule and notify each party of the date, time and location of the hearing. A request for a hearing stays the suspension of a license or licenses.

(2) A record of child support payments prepared by the department or a local child support registry is evidence that payments were made. A certified copy of the record shall be admitted as evidence at a hearing under this chapter.

7-1410. ORDER SUSPENDING A LICENSE. (1) The court, licensing authority or department shall issue an order suspending a license unless:

(a) After notice and hearing, the licensee is found to have paid the delinquency and the current month's support in full, or complied with the subpoena or order for visitation;

(b) The department or obligee files a certification that the obligor has paid current support and has entered into a reasonable schedule for repayment of any child support delinquency; or

(c) At a hearing, the licensee shows other good cause why the request for license suspension should be denied or stayed.

(2) The order suspending a license shall include the last known address of the licensee.

(3) An order suspending a license by the court or department shall also state that the licensee is subject to the penalties of the licensing authority if a final order of suspension is violated.

(4) A final order suspending a license issued by a court or the department shall be forwarded to the appropriate licensing authority.

(5) If the court or department finds that the petition for suspension should be denied, the petition shall be dismissed without prejudice.

7-1411. DEFAULT. The court or department shall deem the allegations of the petition or notice to be admitted and shall issue an order suspending a license if the licensee fails to make a timely request for a hearing or fails to appear at a hearing without good cause.

7-1412. ACTION BY LICENSING AUTHORITY. (1) On receipt of a final order suspending a license, the licensing authority shall summarily suspend the license effective the date the order became final, without additional review or hearing.

(2) A licensing authority may not review, vacate, stay, withhold or reconsider a final order suspending a license.

(3) A summary suspension pursuant to this chapter shall constitute a reportable disciplinary action.

(4) A licensing authority is immune from liability for any act

performed pursuant to this chapter.

7-1413. VACATING OR STAYING AN ORDER SUSPENDING A LICENSE. (1) Upon motion, a court shall issue an order vacating the suspension of a license due to nonpayment of child support if the licensee is found to have paid all current and delinquent child support, or shall stay the suspension for one hundred eighty (180) days if the licensee pays the current support obligation and enters into a repayment agreement. The moving party shall notify the petitioner and the department, if the department is providing child support services pursuant to title IV-D of the social security act or chapter 2, title 56, Idaho Code, of the pendency of these proceedings.

(2) The department shall vacate the suspension of a license ordered by the department upon payment of all current and delinquent child support, or shall stay the suspension for one hundred eighty (180) days if the licensee pays the current support obligation and enters into a repayment agreement.

(3) If the suspension has been stayed and if, at the end of one hundred eighty (180) days, the licensee has maintained current support payments and is in compliance with a repayment agreement, the suspension of the license shall be vacated.

(4) The court or department shall vacate an order suspending a license due to noncompliance with a subpoena, if the licensee complies with the subpoena in a paternity or child support proceeding.

(5) The court may issue an order vacating or staying an order suspending a license due to failure to allow visitation, if the licensee has complied with the order for visitation.

(6) The licensing authority shall be notified if the suspension of a license is vacated or stayed. On receipt of such notice, the licensing authority shall restore the licensee to active status upon payment of any applicable fees and satisfaction of any other licensing requirements.

7-1414. PROCEEDING TO REINSTATE THE SUSPENSION. (1) The obligee or department may file a motion with the court to lift the stay and reinstate the suspension of a license due to nonpayment of child support if the licensee does not maintain current support payments or fails to comply with the terms of a repayment agreement entered into by the licensee.

(2) A person entitled to visitation under an order of a court may file a motion to lift the stay and reinstate the suspension of a license if the licensee fails to comply with the order for visitation. The motion shall allege the manner in which the licensee failed to comply with the order for visitation, and request a hearing.

(3) Upon a motion to lift a stay of an order suspending a license, notice of a hearing shall be provided by personal service or by mail not less than fourteen (14) days prior to the hearing.

(4) The department may also commence administrative proceedings to lift a stay issued by the department, by serving notice alleging the failure to maintain current support payments or to comply with a repayment plan, and notice of a hearing not less than fourteen (14) days before the date of the hearing. Service of the notice by the department shall be by personal service or certified mail.

(5) If the licensee is found not to be maintaining current support payments or not to be in compliance with the terms of a repayment plan or order for visitation, the order suspending a license shall be reinstated and the licensing authority shall be promptly informed of the suspension. The licensing authority shall reinstate the suspension of the license effective the date the order becomes final.

7-1415. FEES AND PENALTIES. A person who is the subject of a final order suspending a license is not entitled to a refund for any fee or deposit paid to the licensing authority. Pursuant to its statute and rules, a licensing authority may charge fees or impose penalties on a licensee whose license is suspended under this chapter. A person who continues to engage in the activity after an order of suspension has become final shall be subject to the same penalties as any person engaging in the activity without a license.

7-1416. COOPERATION BETWEEN LICENSING AUTHORITIES AND THE DEPARTMENT OF HEALTH AND WELFARE. (1) Notwithstanding any provision of the Idaho public records act, chapter 3, title 9, Idaho Code, or other statute or ordinance, upon request of the department a licensing authority shall provide the name, address, social security number, license renewal date and other identifying information for licensees. The information shall be provided in a manner agreed to by the licensing authority and the department.

(2) The department may enter into a cooperative agreement with a licensing authority to administer this chapter in a cost-effective manner.

7-1417. FINAL ORDER OF SUSPENSION. (1) A license suspension order issued by the court shall be final and conclusive between the parties unless an appeal is filed within twenty-eight (28) days.

(2) A license suspension order issued by a hearing officer of the department shall be final and conclusive between the parties unless an appeal to district court is filed within twenty-eight (28) days, notwithstanding the provisions of section 67-5243, Idaho Code.

SECTION 2. This act shall be in full force and effect on and after January 1, 1997.

Approved March 22, 1996.

CHAPTER 430
(S.B. No. 1298, As Amended in the House)

AN ACT

RELATING TO PAYMENT OF CHILD SUPPORT; AMENDING SECTION 32-706, IDAHO CODE, TO PROVIDE FOR SUPPORT OF A CHILD OF MINOR PARENTS BY THE PARENTS OF THE MINOR PARENTS AND TO MAKE TECHNICAL CORRECTIONS.

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

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

32-706. CHILD SUPPORT. ~~A.~~(1) In a proceeding for divorce or child support, the court may order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for his or her support and education until the child is eighteen (18) years of age, without regard to marital misconduct, after considering all relevant factors which may include:

~~1.~~(a) The financial resources of the child;

~~2.~~(b) The financial resources, needs, and obligations of both the custodial and noncustodial parents which ordinarily shall not include a parent's community property interest in the financial resources or obligations of a spouse who is not a parent of the child, unless compelling reasons exist;

~~3.~~(c) The standard of living the child enjoyed during the marriage;

~~4.~~(d) The physical and emotional condition and needs of the child and his or her educational needs;

~~5.~~(e) The availability of medical coverage for the child at reasonable cost;

~~6.~~(f) The actual tax benefit recognized by the party claiming the federal child dependency exemption.

~~B.~~(2) If the child continues his formal education subsequent to reaching the age of eighteen (18) years, the court may, in its discretion, and after considering all relevant factors which include those set forth in subsection ~~A~~ (1) of this section, order the continuation of support payments until the child discontinues his education or reaches the age of nineteen (19) years, whichever is sooner.

~~C.~~(3) Any child support order issued or modified under this section after July 1, 1986, shall contain a provision allowing the obligee to enforce the order by income withholding if arrearages at least equal to the support payable for one (1) month accumulate under the order; and shall include the notice required in section 32-1205, Idaho Code, advising the obligor that the obligee can seek enforcement of the order by means of a mandatory income withholding order issued pursuant to this chapter without further notice to the obligor whenever there are arrearages at least equal to the support payment for one (1) month.

Failure to include this provision does not affect the validity of the support order. 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.

(4) In a proceeding for the support of a child or a minor parent the court may order the parent(s) of each minor parent to pay an amount reasonable or necessary for the support and education of the child born to the minor parent(s) until the minor parent is eighteen (18) years of age, after considering all relevant factors which may include:

(a) The financial resources of the child;

(b) The financial resources of the minor parent;

(c) The financial resources, needs and obligations of the parent

of the minor parent;
(d) The physical and emotional condition and needs of the child and his or her educational needs; and
(e) The availability of medical coverage for the child at reasonable cost.

Approved March 22, 1996.

CHAPTER 431
(H.B. No. 518)

AN ACT
RELATING TO TAXATION OF FOREST LANDS AND FOREST PRODUCTS; AMENDING SECTION 63-1703, IDAHO CODE, TO INCREASE THE MAXIMUM ACREAGE SUBJECT TO APPRAISAL, ASSESSMENT AND TAXATION; AND AMENDING SECTION 63-1704, IDAHO CODE, TO INCREASE THE MAXIMUM ACREAGE THAT MUST BE APPRAISED, ASSESSED AND TAXED AS REAL PROPERTY.

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

SECTION 1. That Section 63-1703, Idaho Code, be, and the same is hereby amended to read as follows:

63-1703. CERTAIN FOREST LANDS TO BE DESIGNATED FOR TAXATION BY OWNER -- LIMITATIONS. For the purposes of appraisal, assessment and taxation under the provisions of this chapter, all forest lands in parcels of five (5) or more acres but less than ~~two~~ five thousand (~~2~~5,000), whether contiguous or not, as long as such parcels are held in common ownership, must be designated by the forest landowner to be subject to the provisions of either subsection (a) or (b) of this section. A forest landowner cannot have parcels designated under the provisions of both subsections (a) and (b) of this section at one (1) time. If the forest landowner fails to make a designation, his forest lands shall be subject to appraisal, assessment and taxation under the provisions of section 63-1702, Idaho Code. Once a designation is made by the forest landowner, such designation must remain in effect until the designation period expires, unless the forest lands are transferred to another owner using a different taxing category; in such case, the taxing category of the transferred forest lands shall be the same as that maintained by the new owner.

A forest landowner may change the designation of all forest lands in common ownership at the end of any designation period, subject to the recapture of any deferred taxes due as a result of such change. After January 1 and by December 31 of the tenth year of each designation period the forest landowner must notify the county assessor of any change in forest land designation. Failure to notify the county assessor will result in the continuation of the landowner's present designation until the end of the next designation period.

Any substantial change in the use of forest lands not conforming with the definition of forest land in section 63-1701, Idaho Code, during such ten (10) year period under the designations made in sub-

section (a) or (b) shall be reported by the landowner to the county assessor within thirty (30) days of the change in use. Upon notification of the change in use, the assessor shall appraise, assess and tax those acres as provided by applicable laws and rules. Failure to notify the assessor of the change in use when forest lands have been designated as subject to the provisions of subsection (a) or (b) shall cause forfeiture of such designation, and cause that property to be appraised, assessed and taxed as provided in section 63-1702, Idaho Code.

Forest lands designated for assessment pursuant to the provisions of section 63-1706, Idaho Code, shall be subject to the recapture of deferred taxes upon removal of such designation, a substantial change in use, or ownership transfer, except that there shall be no recapture initiated upon ownership transfer of forest lands designated as subject to the provisions of section 63-1706, Idaho Code, to a landowner with forest lands already designated as subject to the provisions of section 63-1706, Idaho Code, prior to the transfer, or who so designates his lands to be subject to the provisions of section 63-1706, Idaho Code.

The dollar amount of deferred taxes subject to recapture shall be determined by the county assessor by applying current tax levies against the current values that would have been in effect if the lands were subject to appraisal and assessment during the current year under the provisions of section 63-1705, Idaho Code, if there has been a change in ownership or a removal of designation, or section 63-1702, Idaho Code, if there has been a change in use with no change in ownership, which amount shall be multiplied by the number of years that the lands have been subject to the designation under section 63-1706, Idaho Code. The amount of the deferred tax shall accrue through designation periods, up to a maximum of ten (10) years, and shall apply to the most recent ten (10) years in which the parcel has been designated under the provisions of section 63-1706, Idaho Code. A credit shall be allowed for taxes actually paid under the provisions of section 63-1706, Idaho Code, for an identical ten (10) year period, up to the total amount of the deferred taxes. All deferred amounts shall be a lien against the land. Deferred tax amounts shall be calculated by the county assessor on forms prescribed by the state tax commission. Deferred tax amounts shall be supplied by the county assessor to the county treasurer by May 15 of the year following conveyance or within thirty (30) days of removal of designation, or of learning of a change in use. All deferred tax amounts shall be due and payable to the county treasurer on demand and shall become delinquent if not paid by the demand due date specified by the county treasurer on the forms prescribed by the state tax commission. If the deferred tax is not paid as provided above, the payment becomes delinquent and subject to a penalty, and interest in the amounts provided in section 63-1102, Idaho Code, and subject to collection in the manner as set forth in sections 63-1123 and 63-1117, Idaho Code. Estimated deferred tax amounts may be held by the county treasurer in a tax anticipation account from the date of conveyance until June 1 of the year following conveyance.

The county treasurer shall cause the deferred taxes and any penalty and interest paid pursuant to the provisions of this section to

be apportioned to the various taxing authorities within which the property subject to the tax is located in the same manner as property taxes.

(a) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1705, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1705, Idaho Code, shall become effective the first day of January following the year of designation.

(b) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1706, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1706, Idaho Code, shall become effective the first day of January following the year of designation.

(c) All forest products or timber harvested from investment lands not designated as subject to the provisions of section 63-1702, 63-1705 or 63-1706, Idaho Code, and delivered to a point of utilization as logs or semiprocessed forest products (except those forest products harvested for the domestic use of the landowner under the provisions of section 63-1708, Idaho Code) shall be subject to the yield tax at the time of harvest in the same manner provided for in section 63-1706, Idaho Code.

SECTION 2. That Section 63-1704, Idaho Code, be, and the same is hereby amended to read as follows:

63-1704. LARGE-SIZE FOREST TRACTS. Tracts of forest lands which consist of ~~two~~ <u>five</u> thousand (~~2~~<u>5</u>,000) or more acres, whether contiguous or not, so <u>long as</u> such tracts are held in common ownership, must be appraised, assessed and taxed as real property as provided in section 63-1705, Idaho Code.

Approved March 28, 1996.

CHAPTER 432
(H.B. No. 869)

AN ACT

RELATING TO RECREATIONAL IMPROVEMENTS FOR LUCKY PEAK STATE PARK; AMENDING CHAPTER 42, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4229A, IDAHO CODE, AUTHORIZING THE PARKS AND RECREATION BOARD TO ENTER INTO A LEASE-PURCHASE OBLIGATION OR OTHER FINANCING OBLIGATION TO ACQUIRE BOAT DOCK FACILITIES FOR PUBLIC RECREATIONAL USE AT SPRING SHORES ON LUCKY PEAK RESERVOIR AT LUCKY PEAK STATE PARK, APPROPRIATING USER FEE REVENUES FROM THE PUBLIC RECREATION ENTERPRISE ACCOUNT WITHIN THE PARK AND RECREATION FUND TO PAY THE OBLIGATION, PROVIDING THAT THE OBLIGATION SHALL NOT BE A DEBT OR OBLIGATION OF THE STATE; AND DECLARING AN EMERGENCY.

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 a NEW SECTION, to be known and designated as Section 67-4229A, Idaho Code, and to read as follows:

67-4229A. LUCKY PEAK STATE PARK -- SPRING SHORES DOCK ACQUISITION. Notwithstanding any law to the contrary, the board is hereby authorized to enter into a lease-purchase obligation or other financing obligation, in a principal amount not to exceed six hundred thousand dollars ($600,000), to acquire public recreational boat dock facilities at Spring Shores on Lucky Peak Reservoir within Lucky Peak State Park, under terms, conditions and covenants as the board may approve by resolution. The public recreation enterprise account within the park and recreation fund, or so much of that fund as may be required in the judgment of the board, is hereby continuously appropriated for the acquisition. Any obligation entered into shall be payable solely from user fees for the Spring Shores boat dock facilities deposited into the public recreation enterprise account and shall not be a debt or obligation of the state. The holder or holders of the debt or obligation shall not have the right to compel any exercise of the taxing power of the state to pay the debt or obligation or the interest thereon.

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 28, 1996.

CHAPTER 433
(H.B. No. 843, As Amended, As Amended)

AN ACT

RELATING TO SALES AND USE TAXES; AMENDING SECTION 63-3613, IDAHO CODE, TO EXCLUDE DISCOUNTS ON TELECOMMUNICATIONS EQUIPMENT FROM THE MEANING OF THE TERM "SALES PRICE" AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3621, IDAHO CODE, TO PROVIDE CONCLUSIVE EVIDENCE OF THE VALUE OF WIRELESS TELECOMMUNICATIONS EQUIPMENT AND TO PROVIDE A RETAILER SHALL NOT BE CONSIDERED TO HAVE STORED, USED OR CONSUMED WIRELESS TELECOMMUNICATIONS EQUIPMENT BY VIRTUE OF GIVING, SELLING OR OTHERWISE TRANSFERRING SUCH EQUIPMENT AT A DISCOUNT AS AN INDUCEMENT TO A CONSUMER TO COMMENCE OR CONTINUE A CONTRACT FOR TELECOMMUNICATIONS SERVICE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3613, Idaho Code, be, and the same is hereby amended to read as follows:

63-3613. SALES PRICE. (a) The term "sales price" means the total

amount for which tangible personal property, including services agreed to be rendered as a part of the sale, is sold, rented or leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

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

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

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

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

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

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

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

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

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

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

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

tangible personal property.

7. Charges for transportation of tangible personal property after sale; except that charges by a manufactured homes dealer for transportation of a manufactured home shall be included in the "sales price" of such manufactured home.

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

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

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

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

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

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

SECTION 2. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

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

the property.

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

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

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

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

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

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

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

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

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

(g) If a purchaser gives a resale certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

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

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

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

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

trailer or a vessel as defined in section 67-7003, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

(1) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than a cumulative period of time totaling ninety (90) days in any consecutive twelve (12) months, and which is not required to be registered or licensed under the laws of this state, or to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired by such person in another state while a bona fide resident thereof and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial.

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

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

(2) The state of Idaho; or

(3) Any political subdivision of the state.

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

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1993.

Approved March 28, 1996.

SENATE JOINT RESOLUTIONS

(S.J.R. No. 111)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE VIII, OF THE CONSTITUTION OF THE STATE OF IDAHO, BY THE ADDITION OF A NEW SECTION 3C, ARTICLE VIII, RELATING TO PUBLIC INDEBTEDNESS, TO AUTHORIZE PUBLIC HOSPITALS, ANCILLARY TO THEIR OPERATIONS AND IN FURTHERANCE OF HEALTH CARE NEEDS IN THEIR SERVICE AREAS TO ACQUIRE, CONSTRUCT, INSTALL AND EQUIP FACILITIES OR PROJECTS TO BE FINANCED FOR, OR TO BE LEASED, SOLD OR OTHERWISE DISPOSED OF TO PERSONS, ASSOCIATIONS OR CORPORATIONS OTHER THAN MUNICIPAL CORPORATIONS AND MAY IN THE MANNER PRESCRIBED BY LAW FINANCE THE COSTS THEREOF, TO ENGAGE IN SHARED SERVICES AND OTHER JOINT OR COOPERATIVE VENTURES, TO ENTER INTO JOINT VENTURES AND PARTNERSHIPS, TO FORM OR BE A SHAREHOLDER OF CORPORATIONS OR A MEMBER OF LIMITED LIABILITY COMPANIES, TO HAVE MEMBERS OF ITS GOVERNING BODY OR ITS OFFICERS OR ADMINISTRATORS SERVE AS DIRECTORS, MANAGERS, OFFICERS OR EMPLOYEES OF ANY VENTURE, ASSOCIATION, CORPORATION OR LIMITED LIABILITY COMPANY AUTHORIZED BY THIS CONSTITUTIONAL SECTION AND TO OWN INTERESTS IN PARTNERSHIPS, CORPORATIONS AND LIMITED LIABILITY COMPANIES, TO PROVIDE THAT ANY OBLIGATIONS INCURRED SHALL BE PAYABLE SOLELY FROM CHARGES, RENTS OR PAYMENTS DERIVED FROM THE EXISTING FACILITIES AND THE FACILITIES OR PROJECTS FINANCED THEREBY AND SHALL NOT BE SECURED BY THE FULL FAITH AND CREDIT OF THE STATE OR ANY POLITICAL SUBDIVISIONS THEREOF, TO PROVIDE THAT ANY COUNTY OR PUBLIC HOSPITAL TAXING DISTRICT CONTRACTING SUCH INDEBTEDNESS SHALL OWN ITS PROPORTION TO THE WHOLE AMOUNT SO INVESTED AND TO REQUIRE PRIOR APPROVAL OF THE GOVERNING BODY OF THE COUNTY, HOSPITAL DISTRICT OR OTHER GOVERNING BODY OF A PUBLIC HOSPITAL, AS LONG AS NO AD VALOREM TAX REVENUES ARE USED FOR ANY OF THE AFOREMENTIONED ACTIVITIES; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Article VIII, of the Constitution of the State of Idaho, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 3C, Article VIII, of the Constitution of the State of Idaho, and to read as follows:

SECTION 3C. HOSPITALS AND HEALTH SERVICES -- AUTHORIZED ACTIVITIES AND FINANCING. Provided that no ad valorem tax

revenues shall be used for activities authorized by this section, public hospitals, ancillary to their operations and in furtherance of health care needs in their service areas, may: (i) acquire, construct, install and equip facilities or projects to be financed for, or to be leased, sold or otherwise disposed of to persons, associations or corporations other than municipal corporations and may, in the manner prescribed by law, finance the costs thereof; (ii) engage in shared services and other joint or cooperative ventures; (iii) enter into joint ventures and partnerships; (iv) form or be a shareholder of corporations or a member of limited liability companies; (v) have members of its governing body or its officers or administrators serve as directors, managers, officers or employees of any venture, association, partnership, corporation or limited liability company as authorized by this section; (vi) own interests in partnerships, corporations and limited liability companies. Any obligations incurred pursuant to this section shall be payable solely from charges, rents or payments derived from the existing facilities and the facilities or projects financed thereby and shall not be secured by the full faith and credit or the taxing power of the county, hospital taxing district, the state, or any other political subdivision; and provided further, that any county or public hospital taxing district contracting such indebtedness shall own its just proportion to the whole amount so invested. The authority granted by this section shall be exercised for the delivery of health care and related service and with the prior approval of the governing body of the county, hospital district or other governing body of a public hospital. No provisions of this Constitution including, but not limited to Sections 3 and 4 of Article VIII, and Section 4 of Article XII, shall be construed as a limitation upon the authority granted under this section.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Article VIII, of the Constitution of the State of Idaho be amended by the addition of a new Section 3C, Article VIII, to authorize public hospitals, ancillary to their operations and in furtherance of health care needs in their service areas, as long as no ad valorem tax revenues are used for the following to (i) acquire, construct, install and equip facilities or projects to be financed for, or to be leased, sold or otherwise disposed of to persons, associations or corporations other than municipal corporations and may, in the manner prescribed by law, finance the costs thereof; (ii) engage in shared services and other joint or cooperative ventures; (iii) enter into joint ventures and partnerships; (iv) form or be a shareholder of corporations or a member of limited liability companies; (v) have members of its governing body or its officers or administrators serve as directors, managers, officers or employees of any venture, association, corporation or limited liability company authorized by this constitutional section; and (vi) own interests in partnerships, corporations and limited liability companies, and to provide that any

obligations incurred shall be payable solely from charges, rents or payments derived from the existing facilities and the facilities or projects financed thereby and shall not be secured by the full faith and credit of the state or any political subdivisions thereof, to provide that any county or public hospital taxing district contracting such indebtedness shall own its proportion to the whole amount so invested, to require prior approval of the governing body of the county, hospital district or other governing body of a public hospital?".

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the Senate February 26, 1996
Adopted by the House March 8, 1996

SENATE JOINT MEMORIALS

(S.J.M. No. 105)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SECRETARY OF STATE, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-third Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Secretary-General of the United Nations has declared that the U.N. case resources do not meet current needs or obligations and it is essentially bankrupt; and

WHEREAS, instead of initiating major cuts in spending, operations or personnel, a number of U.N. officials are embracing the idea of global taxes, to the tune of billions or even trillions of dollars, to bail out the world organization and dramatically expand United Nation's operations; and

WHEREAS, currently the U.N. cannot raise revenues other than through "financial contributions" made by member-states; and

WHEREAS, elaborate global tax proposals have recently been advanced from within the U.N. and its agencies to extract further revenue from American taxpayers and American corporations.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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, and the representatives of the state of Idaho, Senator Larry Craig, Senator Dirk Kempthorne, Representative Mike Crapo and Representative Helen Chenoweth, to oppose any legislation seeking to authorize the United Nations to levy taxes on the people and corporations of the United States directly or indirectly for U. N. purposes; and

BE IT FURTHER RESOLVED, that the State of Idaho calls upon the United States Congress to repudiate any U. N. effort to establish new international agencies with the power and authority to tax international activities and levy global taxes on member-states' citizens and corporations; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memo-

rial to the President of the United States, the Secretary of State of the United States, 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 January 22, 1996
Adopted by the House February 2, 1996

HOUSE JOINT MEMORIALS

(H.J.M. No. 6)

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 AND TO THE GOVERNOR OF THE STATE OF IDAHO.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-third Idaho Legislature, do hereby respectfully represent that:

WHEREAS, during the settlement of what is now the state of Idaho and the years immediately following, grizzly bear and human interaction occurred to the extent that it became necessary to reduce the populations of grizzly bear in the interests of personal safety and the protection of private property; and

WHEREAS, the natural result of these efforts, over time, has been the establishment of a de facto and maximum acceptable ratio of such bears to humans in areas where their populations remain; and

WHEREAS, the reintroduction of grizzly bears to Idaho will disrupt this bear-to-human ratio to the detriment of humans resulting in injury, death, and loss of personal freedoms to the citizens of Idaho; and

WHEREAS, our neighboring state of Montana has experienced unnecessary loss of human life, unacceptable land use restrictions and legal denial of the right to protect private property, which current reintroduction proposals for Idaho also threaten and echo; and

WHEREAS, the United States Fish and Wildlife Service has elected to abdicate previously existing grizzly management agreements with one or more state game management agencies under pressure from special interest groups; and

WHEREAS, the forced reintroduction of grizzly bears into areas of this state without citizen support represents unwarranted intrusion into the rights of our citizens; and

WHEREAS, the Governor of the state of Idaho is vested with the supreme executive power within this state.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urgently request the Congress of the United States to take immediate action to protect Idaho citizens from undue injury and loss of life, as well as unacceptable land use restrictions, that will occur under a federal grizzly bear reintroduction program. We specifically request that all

funding and authorization for a forced grizzly bear reintroduction program be completely withdrawn from all federal agencies involved.

BE IT FURTHER RESOLVED that we urgently request the Governor of the state of Idaho to take any and all actions necessary to stop the reintroduction of grizzly bears into the state of Idaho by any federal agency or nongovernmental group; and

BE IT FURTHER RESOLVED that we encourage the Governor to make use of the Constitutional Defense Fund, in accordance with existing statutes, to defend the rights of this state and its citizens against any action or challenge regarding grizzly bear reintroduction by the federal government; and

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 and the Governor of the state of Idaho.

Adopted by the House February 26, 1996
Adopted by the Senate March 14, 1996

(H.J.M. No. 8)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-third Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the 366th Wing at Mountain Home Air Force Base, Idaho, is the Air Force's only air intervention composite wing providing lethal, integrated air power worldwide;

WHEREAS, the 366th Wing is unique because it is a composite force already built and trained, ready to fight and intervene anytime, anywhere;

WHEREAS, one of the primary benefits of a composite wing structure is the opportunity for aircrews to train every day under more realistic conditions, with a variety of aircraft flying multiple missions; and

WHEREAS, the 366th Wing exceeded all of Air Combat Command's tough standards at the wing's first Air Force inspection in July, 1995, the first ever for a composite wing and the largest in Air Force history;

WHEREAS, the opening of a training range near Mountain Home Air Force Base is essential to maintain the readiness and strike force capabilities of this unique military asset.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the Congress of the United States to pass necessary legislation to establish

and fund the training range at the Mountain Home Air Force Base, Idaho.

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 29, 1996
Adopted by the Senate March 12, 1996

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 127)

A CONCURRENT RESOLUTION
RECOGNIZING ACCOMPLISHMENTS AND NEEDS FOR ADULT LITERACY PROGRAMS AND DECLARING NOVEMBER, 1996, 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 lifelong 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 Second Regular Session of the Fifty-third Idaho Legislature, the Senate and the

House of Representatives concurring therein, that November, 1996, be declared "Idaho Literacy Month" for the purpose of focusing public awareness on issues of family literacy, workplace literacy and citizenship.

Adopted by the Senate January 19, 1996
Adopted by the House February 7, 1996

(S.C.R. No. 132)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of a stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the Legislature, except that if the Legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 36-07819 on October 11, 1995, by issuing a Final Order authorizing the appropriation of a minimum streamflow in Briggs Creek of 30 cfs from January 1 through December 31. The minimum streamflow begins at a point in Government Lot 13 (SW1/4 NE1/4 SE1/4), Section 4, Township 9 South, Range 14 East, Boise Meridian, where the "braided channels" become one channel and extends approximately one-quarter mile to where Briggs Creek joins the Snake River in Government Lot 14, Section 4, Township 9 South, Range 14 East, Boise Meridian, all in Gooding County.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Final Order issued by the Director of Water Resources on October 11, 1995.

Adopted by the Senate February 8, 1996
Adopted by the House March 4, 1996

(S.C.R. No. 134)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND INSTRUCTING THE IDAHO STATE INSURANCE FUND TO DEVELOP PROGRAMS TO PROVIDE TYPES OF WORKER'S COMPENSATION POLICY COVERAGES.

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

WHEREAS, the Legislature has had under consideration and has adopted Senate Bill 1377 repealing the exemption for agricultural pursuits contained in the worker's compensation statutes; and

WHEREAS, in the course of considering worker's compensation coverage for agricultural employees, it has become apparent to the Legislature that policies of worker's compensation insurance providing deductible features and the formation of safety groups are an important means of reducing the costs of worker's compensation insurance.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Idaho State Insurance Fund is hereby instructed to develop programs to provide deductible coverage and to participate in worker's compensation safety group arrangements.

Adopted by the Senate February 9, 1996
Adopted by the House March 5, 1996

(S.C.R. No. 135)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO TRANSPORTATION DEPARTMENT RELATING TO THE DEFINITION OF MARKET VALUE FOR SALVAGE, SPECIALLY CONSTRUCTED AND RECONSTRUCTED VEHICLES.

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 the Legislature finds that the rules were not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho Transportation Department are not consistent with legislative intent.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 39.02.07.010, as amended by Docket No. 39-0207-9501, relating to definition of market value is hereby amended to read as follows:

010. DEFINITIONS. (1-1-90)

01. Major Component Parts. The six (6) major component parts which are commonly used to reconstruct a motor vehicle shall be defined solely for reconstruction purposes as follows. (11-1-94)

a. Front/Front End Assembly/Front Clip/Nose Section. An integrated section of body structural component parts located forward of the firewall, i.e. front fender apron, front side member, front suspension cross members, hood lock brace, front cross member, radiator side support (side baffle), radiator upper support, hood and other

such parts that may be pertinent to this section and not including a frame section. (1-1-90)

b. Body/Center Passenger Area. The center structure, either of a unibody or frame-type passenger vehicle, consisting of a unit of sheet metal and structural components that extends from the firewall to the back of the rear seat or to the factory seam separating the rear section or the centerline of the rear wheels, i.e. cowl panel, dash panel, floor pans, center side body panels, side rails, rocker panels, and other such component parts that may be pertinent to this section. This major component shall not include the top/roof section of the passenger compartment. (11-1-94)

c. Top/Roof of Passenger Compartment. The top/roof section consisting of sheet metal severing the vehicle joining at the windshield, side and rear window posts, i.e. center pillar upper outer reinforcement, roof side inner rail, roof side outer rail, roof drip channel, roof side inner panel and other such component parts that may be pertinent to this section. (11-1-94)

d. Rear/Rear Clip. The complete rear sheet metal section and structural components formed by severing the vehicle across the floor behind the rear seat, or at the factory seam separating the center passenger section or through the centerline of the rear wheels, i.e. upper back panel, luggage compartment door hinge arm, quarter wheel house panel, quarter panel, lower back panel, rear valance panel, rear floor pan, rear seat cushion support brace, rear floor side panel, rear deck lid, rear floor no. 1 cross member, and other such component parts that may be pertinent to this section. (11-1-94)

e. Frame. The heavy metal structure that supports the auto body and other external component parts on body over-frame constructed vehicles only. For the purposes of this section, damage that is evident between the centerline of the front wheels and the centerline of the rear wheels will be considered major component damage to the frame. Damage to the ends of the frame, front and rear will be considered as minor damage, easily repaired and not considered as major component damage. The typical bolt-on stub frame used on a semi-unitized vehicle will not be considered a separate major component part. (1-1-90)

f. Cab. The passenger compartment of a common truck or pickup truck. It is a unit of sheet metal and structural components including the top/roof and the cowl which may or may not include glass, instrumentation, steering column and seat. (11-1-94)

02. Market Value. The market value is the value of the vehicle, prior to the vehicle receiving damage from the incident that caused the vehicle to be declared salvage. This value will be determined by reference to an official used car guide. For purpose of the rule, Known Market Value, Fair Market Value, Retail Market Value, and Market Value are the same and will be referred to as "Market Value." (7-1-95)T

0~~2~~3. Primary Damage. Local damage that occurs at the point of impact on the vehicle. (7-1-90)

0~~3~~4. Secondary Damage. Damage that occurs due to misplaced energy that causes stresses in suspension and/or body dimensions at areas other than the primary impact zone. If the secondary damage area can be repaired or replaced within a six (6) hour period, as indicated

in a recognized collision estimating guide, the damage will not be counted as a section or major component part while inspecting for branding considerations. (7-1-90)

045. Significant Parts. For the purpose of this rule, the significant parts are all replaced parts that will require a bill of sale or traceable invoice from the former owner identifying the part by vehicle identification number and identifying the seller by name and address. These parts are the front fenders, hood, doors, bumpers, quarter panels, decklid, tailgate or hatchback (whichever is present). (7-1-90)

Adopted by the Senate February 13, 1996
Adopted by the House March 11, 1996

(S.C.R. No. 136)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE CONCERNING MANAGED HEALTH CARE AND ASSOCIATED HEALTH CARE FINANCE AND ORGANIZATION ISSUES AND AUTHORIZING A LEGISLATIVE COUNCIL STUDY OF THESE ISSUES.

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

WHEREAS, there may be no matter affecting the general welfare of the citizens of Idaho which has been impacted by more rapid change than the structure and organization of the health care industry and meeting the costs of health care through health insurance, managed care and managed care organizations; and

WHEREAS, in the concern surrounding health care and health care financing, there are many issues including, but not limited to, quality, availability, affordability, access, utilization, coordination of benefits, needs of the uninsured; and

WHEREAS, managed care, health maintenance organizations (HMO's) and Preferred Provider Organizations (PPO's) have appeared in the health care industry, many of which serve provider needs, but which must also be managed to assure preservation of patient choices, disclosure rights and quality of care; and

WHEREAS, state law requires the Department of Insurance to regulate the health care financing industry including insurance, managed care, HMO's and PPO's but provides no funding for their regulation except for the premium tax on insurance products, therefore causing the insurance industry to pay for the regulation of itself and its competitors; and

WHEREAS, the Legislature of the state of Idaho has passed aggressive reforms for the insurance industry, with regard to pre-existing conditions, portability, access, rating practice abuse, and other issues that managed care has yet to address; and

WHEREAS, no citizen or government can effectively address health care availability without addressing the costs of providing this care; and

WHEREAS, recently, there is concern that Idaho citizens may require assurances and protections related to health care in state law as well as through the competition of the market place; and

WHEREAS, legislators have been asked to address guarantees of patient rights in the burgeoning health care industry.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 an interim committee to undertake a study of matters relating to managed care and associated health care organizations and quality issues surrounding provision of health care to citizens of Idaho.

Adopted by the Senate February 26, 1996
Adopted by the House March 15, 1996

(S.C.R. No. 138)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING COMMUNITY EFFORTS THAT ENABLE FAMILIES TO PROVIDE SAFE AND NURTURING HOMES FOR CHILDREN TO GROW TO THEIR FULL POTENTIAL.

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

WHEREAS, the Governor of the State of Idaho has declared that we must open our hearts, our minds, and our pocketbooks to making children feel wanted today, and to help them become tomorrow's productive and thoughtful citizens; and

WHEREAS, the family is the traditional basic unit of our society and is of primary importance in the development of our children; and

WHEREAS, families face increasing stress and challenge from conditions and circumstances often beyond their control; and

WHEREAS, 13,452 child protection referrals were received by the State of Idaho in 1995; and

WHEREAS, early parental rejection appears to be a powerful predictor of juvenile delinquency, and there were 23,170 juvenile arrests, including 427 arrests for violent crimes, in 1994; and

WHEREAS, Idaho's infant and child death rates are among the highest of our neighboring states; and

WHEREAS, the most important step in responding to the crises of childhood deaths, child abuse and neglect, family violence, juvenile delinquency and crime is to prevent the crises before they occur; and

WHEREAS, research over the past two decades confirms that providing educational and support services to parents around the time of a baby's birth can significantly reduce the risk factors associated with childhood death and abuse; and

WHEREAS, Idaho health care providers and insurers recognize that prevention services for children, including prenatal care, are cost-effective; and

WHEREAS, parents are their children's first and primary teachers

and healthy families produce children ready to learn when they enter the school system; and

WHEREAS, families benefit from community and religious organizations that help them provide guidance and discipline for their children and instill sound values in them; and

WHEREAS, it is in the interest of our state to emphasize the strengths and enhance the opportunities within each family by encouraging community partnerships of public and private resources which promote healthy families.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that we recognize current efforts of community organizations in strengthening families with children and commit ourselves to influence statewide decisions and policies that will focus resources to maintain, enhance and expand parent education and support for families.

Adopted by the Senate February 14, 1996
Adopted by the House March 12, 1996

(S.C.R. No. 140)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS REGARDING OUTDOOR RECREATION BENEFITS AND NEEDS, AND RESOLVING THAT WHEN ECONOMIC CONDITIONS PERMIT MONEY FROM THE STATE GENERAL FUND BE PROVIDED TO THE STATE TRUST FOR OUTDOOR RECREATION ENHANCEMENT, THAT DIRECTORS OF STATE AGENCIES BE ENCOURAGED TO FORM A COMMITTEE TO COORDINATE RECREATION EFFORTS, AND THAT PUBLIC SCHOOLS BE ENCOURAGED TO COORDINATE FACILITIES PLANNING WITH LOCAL UNITS OF GOVERNMENT.

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

WHEREAS, outdoor recreation provides important economic, social, personal and resource benefits; and

WHEREAS, outdoor recreation enhances education and law enforcement efforts by providing positive experiences for participants and preventing crime; and

WHEREAS, Idahoans have a great need for diverse outdoor recreation facilities and programs associated with local governments, as well as those provided by the natural resources of this state; and

WHEREAS, tourists are visiting Idaho in record numbers to experience the state's diverse recreation opportunities and natural resources; and

WHEREAS, the Federal Land and Water Conservation Fund, which has been used more than any other program to develop Idaho's city, county, and state outdoor recreation facilities, no longer contributes any money to recreation in Idaho; and

WHEREAS, Idaho's recreation infrastructure is deteriorating at a tremendous rate due to the lack of funding and increased demand for existing funds, so that new, innovative funding efforts are needed;

and

WHEREAS, the State Trust for Outdoor Recreation Enhancement (STORE) was created by the state Legislature to help replace funds lost because of federal budget cuts; and

WHEREAS, many state agencies administer outdoor recreation funds and programs in Idaho but some are reluctant to share information, coordinate actions or cooperate with other state agencies, thereby frustrating efforts to maintain and develop recreation facilities and programs; and

WHEREAS, the reluctance of state agencies to share information, coordinate actions and cooperate, wastes time and money and is abhorrent to the citizens of the state; and

WHEREAS, there is a lack of indoor recreation facilities in the state, and city and county citizens would benefit from efforts of local public school districts to coordinate planning of school facilities with local governments so the facilities will be more accessible for local recreation.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that to the extent possible and when economic conditions permit, money from the state General Fund be provided to the State Trust for Outdoor Recreation Enhancement; that directors of state agencies administering funds and programs for outdoor recreation should form a committee to meet quarterly and share information about their recreation efforts, to coordinate with other state agencies, and to provide efficient administration of recreation funds and programs; and that to the extent possible, public schools should coordinate planning of their facilities with local units of government to ensure coordination with community recreation needs.

Adopted by the Senate February 14, 1996
Adopted by the House February 19, 1996

(S.C.R. No. 142)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND APPROVING TEMPORARY RULES REVIEWED BY THE LEGISLATURE, WITH EXCEPTIONS.

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

WHEREAS, the Legislature by statute must approve temporary rules by adoption of a concurrent resolution approving, amending or modifying the rule if the temporary rule is to remain in effect beyond the end of the current legislative session; and

WHEREAS, the expiration of temporary rules would occasion additional expense to state agencies in readopting and republishing temporary rules needed to conduct state business; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that all temporary rules adopted by state agencies pursuant to the Administrative Procedure Act and submitted to the Legislature at the Legislature's request through the Office of Rules Coordinator by January 10, 1996, be, and the same are approved, with the exception of the following enumerated temporary rule sections: rules of the Idaho Department of Agriculture, IDAPA 02.06.33.001 and 02.06.33.150, relating to late blight of potato Solanum Tuberosum L., which rule sections have been proposed for amendment by separate concurrent resolution; rules of the Idaho Department of Fish and Game, IDAPA 13.01.04.304.01.b., rules governing licensing relating to handicapped archery permits, and IDAPA 13.01.19.159, rules governing operating, discontinuing and suspending vendors relating to telecommunication reimbursements to vendors, and IDAPA 13.01.20.102.05, rules governing selection rules of new fish and game vendors relating to applicant cooperation; and rules of the Idaho Department of Health and Welfare, IDAPA 16.06.01.173, rules governing family and children's services relating to substantiated reports. A temporary rule or partial temporary rule approved by this concurrent resolution shall remain in effect until it expires by its own terms or by operation of law or until it is replaced by a final rule, but in no event shall a temporary rule remain in effect beyond the conclusion of the First Regular Session of the Fifty-fourth Idaho Legislature unless it is further extended, amended or modified by adoption of a concurrent resolution. Temporary rules or sections of temporary rules which are excepted from approval hereunder or which were not submitted to the Legislature for review by January 10, 1996, shall expire by operation of statute upon adjournment of the Second Regular Session of the Fifty-third Idaho Legislature, unless approved by adoption of a separate concurrent resolution by both houses of the Legislature.

Adopted by the Senate February 15, 1996
Adopted by the House March 4, 1996

(S.C.R. No. 143)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE.

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

WHEREAS, the Legislature by statute must approve, amend or modify certain administrative rules which impose a fee or charge by adoption of a concurrent resolution before the rule becomes effective; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that all administrative

rules or portions of administrative rules except temporary rules adopted by state agencies pursuant to the Administrative Procedure Act since July 1, 1995, and submitted through the Office of Rules Coordinator to the Legislature for review during the 1996 legislative session, which impose a fee or charge, be, and the same are approved. Rule provisions imposing fees or charges that were not submitted through the Office of Rules Coordinator for legislative review or that otherwise are not included in this concurrent resolution shall be null, void and of no force and effect unless amended, modified or approved by adoption of a separate concurrent resolution by both houses of the Legislature.

Adopted by the Senate February 15, 1996
Adopted by the House March 4, 1996

(S.C.R. No. 146)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND AMENDING AND EXTENDING RULES OF THE IDAHO DEPARTMENT OF HEALTH AND WELFARE REGARDING SUBSTANTIATED REPORTS, AND EXPRESSING LEGISLATIVE INTENT.

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 a certain rule of the Department of Health and Welfare relating to substantiated reports for entry into the Department's central registry is not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that the rule in question was promulgated as a temporary rule and should be extended, as modified herein, until a final rule becomes effective; and

WHEREAS, it is the further intent of the Legislature that the final rule contain the changes indicated herein.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that rules of the Department of Health and Welfare, IDAPA 16.06.01.173, relating to substantiated reports for entry into the Department's central registry, be, and the same are hereby amended to read as follows:

173. SUBSTANTIATED REPORTS.
Reports determined to be "valid" ~~or "indicated"~~ shall be considered substantiated and the information shall be entered into the Department's Central Registry for the reporting of child abuse, abandonment and neglect, and the families so advised in writing. Notification will include how the individual can appeal to have his name removed from the list.

~~(11-16-95)T~~( )

BE IT FURTHER RESOLVED, that the rules of the Idaho Department of Health and Welfare, IDAPA 16.06.01.173, as modified herein, be, and the same are hereby approved and extended and shall remain in effect until final rules which contain the changes herein approved become effective.

BE IT FURTHER RESOLVED, that the Legislature hereby expresses its intent that the Idaho Department of Health and Welfare adjust and update its central registry in conformity with IDAPA 16.06.01.173, as modified herein, so as to include in said registry only those reports determined to be "valid" as provided in the Department's rules governing family and children's services, IDAPA 16, Title 06, Chapter 01.

Adopted by the Senate February 28, 1996
Adopted by the House March 11, 1996

(S.C.R. No. 147)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING AND APPROVING RULES OF THE IDAHO BOARD OF NURSING REGARDING LICENSED PROFESSIONAL NURSES.

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 Board of Nursing are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho Board of Nursing should be approved with modifications to be consistent with legislative intent.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that rules of the Idaho Board of Nursing, IDAPA 23.460.01, IDAPA 23.460.05, IDAPA 23.460.07 and IDAPA 23.460.08, as those rules are amended and promulgated by Docket No. 23-0101-9501, relating to licensed professional nurses, be, and the same are hereby amended to read and are approved as follows:

01. Assessing the Health Status. The licensed professional nurse is accountable and responsible for assessing and evaluating the health status of individuals and groups by: (11-28-84)

a. Collecting objective and subjective data from observations, examinations, interviews, and written records in an accurate and timely manner. The data includes, but is not limited to: (7-1-93)

i. Biophysical and emotional status; (11-28-84)

ii. Growth and development~~;--including---early---periodic screening;~~ ( )

iii. Cultural, religious and socio-economic background; (11-28-84)

iv. Family health history; (11-28-84)

v. Information collected by other health team members; (11-28-84)

vi. Knowledge and perception about health status and potential, or maintaining health status gathered from client, family and others; ( )

vii. Ability to perform activities of daily living; (11-28-84)

viii. Patterns of coping and interacting; (11-28-84)

ix. Consideration of client's health goals and discharge needs; ( )

x. Environmental factors (e.g., physical, social, emotional and ecological); and (11-28-84)

xi. Available and accessible human and material resources. (11-28-84)

b. Interpreting the data, determining the interrelationships and the significance of the data to the client's health status and treatment regimen. ( )

c. Recording and reporting the data. (7-1-91)

d. Validating, refining and modifying the data by using available resources including interactions with the client, family, health team members and others. ( )

e. Conducting screening to identify deviations from normal and referring deviations from normal for further evaluation and follow-up. ( )

05. Implementing the Strategy of Care. The licensed professional nurse is accountable and responsible for the implementation of the plan of nursing care by: (7-1-93)

a. Initiating care, giving direct care, assisting with care, coordinating care, or delegating care to qualified persons who may include family members and others. ( )

b. Exercising judgment when executing nursing and medical regimen to assure that the medical orders and nursing orders are accurate, that there are no documented contraindications to carrying out the orders and that the medical orders are properly authorized. Medication and treatment orders received from physicians in bordering states ~~are legally authorized orders~~ may be administered. ( )

c. Administering ~~prescribed~~ medication through a variety of routes (oral, topical, rectal, parenteral) as prescribed by those health care providers authorized to prescribe medications, based on knowledge, rationale, purpose and their effects. (See Rule 400.01.1-f.) ( )

i. Administration of medication may include but is not limited to: intravenous diagnostic agents, intravenous chemotherapy, epidural/intrathecal analgesia, continuous subcutaneous narcotics; medication through chest tubes, ventricular shunts, tumor catheters, intercostal catheters; topical cervical gels, injection of wounds with local anesthetics for cleansing, and programming pumps. ( )

ii. Provision of medication includes but is not limited to: providing medications according to Board-approved protocols.

( )

iii. Medication orders must be obtained from legally authorized prescribers; labels on prescription containers do NOT constitute authorized orders. ( )

d. Administering ~~prescribed~~ treatments and performing procedures as prescribed by those health care providers authorized to prescribe those treatments based on documented knowledge, rationale, purpose and their effects; (See Rule 400.01.a-f.) ( )

i. Insertion of various lines and tubes including but not limited to: enteral feeding tubes, weighted gastric tubes, infant/pediatric intraosseous lines, peripherally inserted central or midline catheters, umbilical catheters, fetal monitoring electrodes with amniotomy, radial arterial catheters, and reinsertion of preexisting catheters and tubes with established tracts. ( )

ii. Removal of various lines and tubes including but not limited to: epidural catheters, fetal scalp electrodes, and arterial sheath. ( )

iii. Ordering tests based on protocols including but not limited to: ~~radiographic-confirmation-of-placement-of-nasogastric--tubes, and~~ laboratory tests ~~based-on-protocols~~ and radiographic confirmation of placement of nasogastric tubes. ( )

iv. ~~Obtaining-PAP-smears-and--cervical--cultures,--a~~Applying casts, ~~performing--flexible-sigmoidoscopy-for-colon-cancer-screening,~~ performing instrument debridement of non-viable tissue~~;-performing-bimanual-pelvic-examinations-and-male-rectal-examinations-for-screening~~, obtaining amniotic fluid volume index measurements and providing specialized foot care. ( )

e. Providing education and counseling to clients and their significant others to facilitate accomplishment of immediate and long-term goals and outcomes: ( )

i. Assess ability of the client to comprehend instruction. ( )

ii. Provide instruction to include return demonstration and action to take in an emergency. ( )

f. Monitoring health status parameters including hemodynamic, cardiac and electroencephalogram, and progression toward established outcomes to include on-going responses to treatments, medication, and intravenous therapy. ( )

g. Determining necessary care through triage and making other clinical judgments and decisions regarding client's status for the purpose of modifying care as indicated. ( )

h. Documenting nursing interventions, responses to care, modification of care, education and counseling. ( )

i. Communicating nursing interventions and responses to care to other members of the health team. (7-1-91)

07. Maintaining Safe and Effective Nursing Care. The licensed professional nurse is accountable and responsible for: (11-28-84)

a. Maintaining a safe environment. (7-1-91)

b. Evaluating a client's status and instituting appropriate therapy or procedures which might be required in emergency situations to stabilize a client's condition or prevent serious complications in

accordance with standard procedures established by the policy-making body in the health care setting, including but not limited to administration of intravenous drugs and starting intravenous therapy ~~if medical orders cannot be obtained and~~ based on protocols if the client has been assessed and determined to be in peril. ( )

c. Acting as a client advocate. ( )

d. Applying principles of asepsis and infection control and universal precautions when providing nursing care. ( )

e. Functioning as the circulating nurse in the operating room. (7-1-91)

f. Accepting orders for medications and treatments initiated by an authorized prescriber. ( )

g. Providing advice to clients via telecommunication in accordance with agency policies and utilizing agency approved documents for first aid or self-care and recognized community resources. ( )

08. Functions That May NOT be Performed. The licensed professional nurse may NOT: ( )

a. Perform deliveries of babies if not certified as a nurse midwife. ( )

b. Perform anesthesia care services if not registered as a nurse anesthetist. ( )

c. Function routinely with organized pre-hospital emergency services if not certified as an emergency medical technician. ( )

d. Perform any acts of surgery except as set forth in Section 490. of these rules. ( )

Adopted by the Senate March 4, 1996
Adopted by the House March 14, 1996

(S.C.R. No. 148)

A CONCURRENT RESOLUTION

AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO STUDY THE OPERATIONS OF IDAHO PORTS OF ENTRY AND CHECKING STATIONS AND TO MAKE RECOMMENDATIONS TO ENHANCE THE OVERALL EFFICIENCY OF OPERATIONS.

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

WHEREAS, the Idaho Transportation Department is authorized and directed by the provisions of Section 40-510, Idaho Code, to establish temporary or permanent ports of entry or checking stations to provide for the efficient and effective enforcement of certain motor vehicle related laws; and

WHEREAS, several state agencies including the Idaho State Police Division of the Department of Law Enforcement, the Idaho Transportation Department, the Department of Health and Welfare, and the Public Utilities Commission, have statutory duties which involve enforcement

of motor vehicle laws affecting operations at ports of entry and checking stations; and

WHEREAS, the efficiency of operations at ports of entry and checking stations may be compromised by the number of agencies involved; and

WHEREAS, there is a need to conduct a thorough review of operations which encompass enforcement of motor vehicle permits for transportation of hazardous waste, transportation of livestock and brand inspections, transportation of explosives, maintenance of motor carrier liability insurance, motor carrier vehicle equipment and permitted weights, registrations, titling and driver license requirements.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 of six members to undertake a thorough investigation of the operations at ports of entry and checking stations and to make legislative recommendations to enhance efficiency and effectiveness of operations at such locations.

BE IT FURTHER RESOLVED, that the committee shall report its findings, recommendations and recommended legislation, if any, to the First Regular Session of the Fifty-fourth Idaho Legislature.

Adopted by the Senate March 11, 1996
Adopted by the House March 15, 1996

(S.C.R. No. 149)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of a stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the Legislature, except that if the Legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 36-07822 on October 11, 1995, by issuing a Final Order authorizing the appropriation of a minimum streamflow in Banbury Springs of 97 cfs from January 1 through December 31. The minimum streamflow begins at Banbury Springs and ends at the confluence of the discharge of the springs from Morgan Lake with the Snake River in Government Lot 4 (SE1/4 NW1/4), Section 33, Township 8 South, Range 14 East, Boise Meridian, Gooding County.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby

approved subject to the conditions and limitations contained in the Final Order issued by the Director of Water Resources on October 11, 1995, and the Resolution of the Idaho Water Resource Board approved on February 29, 1996.

Adopted by the Senate March 11, 1996
Adopted by the House March 14, 1996

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 24)

A CONCURRENT RESOLUTION
PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND 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 Second Regular Session of the Fifty-third Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 8, 1996.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 8, 1996, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 8, 1996
Adopted by the Senate January 8, 1996

(H.C.R. No. 25)

A CONCURRENT RESOLUTION
PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND 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 Second Regular Session of the Fifty-third Idaho Legislature in the Chamber of the House of Representatives at 11 a.m. on Wednesday, January 10, 1996.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 Wednesday, January

10, 1996, at 11 a.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 10, 1996
Adopted by the Senate January 10, 1996

(H.C.R. No. 27)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO STATE TAX COMMISSION RELATING TO THE USE OF DIRECT CAPITALIZATION AS PART OF THE INCOME APPROACH TO DETERMINING MARKET VALUE FOR PROPERTY TAX PURPOSES.

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 the Legislature finds that the rules were not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho State Tax Commission are not consistent with legislative intent.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the rule of the Idaho State Tax Commission, IDAPA 35.01.03.377, relating to the manner of assessment and valuation of certain property appraised by the State Tax Commission, be, and the same is hereby amended to read as follows:

377. MANNER OF ASSESSMENT--VALUATION. (7-1-93)

01. Appraisal techniques used by the Commission in estimating market value for assessment purposes will be the same as recognized by court decisions, supported by text books and technical publications common to the industry. These techniques include the cost approach, income approach, and stock and debt or market approach. By correlation of these approaches, market value is estimated. (7-1-93)

02. The unitary method of valuation is, in most cases, used by the department on centrally assessed properties. This method values the entire units of property as one (1) thing or going concern. valuation. For example, the estimated market value of a line of interstate railroad or utility is something more than an aggregation of the value of separate parts of it, operated separately. It is the aggregate of these values plus that arising from the unitary operation of the whole which constitutes the full value of property. Then each state has an equal right to a just proportion of that value. (7-1-93)

03. The material relating to valuation, value approaches, reproduction and replacement cost approaches to value, historical and original cost approaches to value, the income approach and stock and debt approach to value shall also apply to the assessment of private railroad car companies except as provided otherwise in ~~Idaho--Property~~

~~Tax Administrative~~ Rule ~~55~~ 408 of these rules. ~~(7-1-93)~~( )

04. Value Approaches. The level of market value sought shall be consistent with the market value concept defined in ~~Section~~ paragraph (1) of Rule 204 of these rules. The appraiser shall consider one or more of the following, as may be appropriate for the property being appraised. ~~(7-1-93)~~( )

a. The price or prices at which the property and comparable properties have recently sold the comparative sales approach. (7-1-93)

b. The prices at which fractional interests in the property or comparable property have recently sold, and the extent to which prices would have been increased had there been no prior claims on the assets (stocks and debt approach). (7-1-93)

c. The cost of replacing reproducible property with new property of similar utility, or of reproducing the property at its present site and at present price levels, less the extent to which the value has been reduced by depreciation, including both physical deterioration and obsolescence the replacement or reproduction cost approach. (7-1-93)

d. The amount invested in the property or the depreciation computed the method employed by the regulatory agency if the income from the property is regulated by law and the regulatory agencies use historical cost or historical cost less depreciation as a rate base the historical cost approach. (7-1-93)

e. The amount that investors would be willing to pay for the right to receive the income that the property would be expected to yield, with the risk attendant upon its receipt the income approach. (7-1-93)

05. Reproduction and Replacement Cost Approaches to Value. (7-1-93)

a. The reproduction or replacement cost approach to value is used in conjunction with other value approaches and is preferred when neither reliable sales data including sales or fractional interests nor reliable income data are available and when the income from the property is not so regulated as to make such costs irrelevant. It is particularly appropriate for construction work in progress. (7-1-93)

b. The reproduction cost of a property may be extended either by 1) adjusting the property's original cost for price level changes and abnormalities, if any, or 2) applying current prices to the property's labor, material, components, with appropriate additions for managerial services, interest on borrowed or owner-supplied funds, or other costs typically incurred in bringing the property to a finished state (or to a lesser state as unfinished on the lien date). Estimates may be made by using square feet, cubic feet, or other unit costs; a summarization of the in place costs of all components; a quantity survey of all material, labor and other cost elements; or combination of these methods. (7-1-93)

c. The original costs of reproducible property shall be adjusted, in the aggregate or by groups, for price level changes since original construction by multiplying the cost incurred in a given year by an appropriate price index factor. When detailed investment records are unavailable for earlier years or when only a small percent of the total investment is involved, the investments in such years may be lumped and factored to present price levels by means of an index num-

ber that represents the appraiser's best judgement of the weighted average price change. If the property was not new when acquired by its present owner and its original cost is unknown, its acquisition cost may be substituted for original cost in the foregoing calculations. (7-1-93)

d. The replacement cost of property may be estimated as indicated by applying current prices to the labor and material components of a substitute property capable of yielding the same services and amenities, with appropriate additions as specified in Subsection 377.05.b. (7-1-93)

e. Reproduction or replacement cost shall be reduced by the amount that such cost is estimated to exceed the current value of the reproducible property by reason of physical deterioration, misplacement, over-or-under improvement, and other forms of depreciation or obsolescence. The percent that the remainder represents, of the reproduction or replacement cost, is the property's percent good. (7-1-93)

06. Historical and Original Cost Approaches to Value. (7-1-93)

a. Historical cost is the first cost of a property item regardless of the present owner or interim sales transactions. It usually refers, in utility properties, to the cost of a property item when first devoted to public service. (7-1-93)

b. Original cost is the cost of a property item to the present owner. At times, it is used as equivalent to historical cost. The majority of utility companies have had their major growth under control of state and federal regulatory bodies. Original cost has been defined by the regulatory agencies as the cost of property when first devoted to utility service. This amount is nearly always the amount shown on the books of the company as investment in operative plant. If one operating company were to purchase another operating company, and consolidate the books, the amount the surviving company would be permitted--and required--to show in its investment in plant accounts is the amount the dead company had invested, regardless of whether the purchase price was more or less than the book amount, with the difference being carried in a balance sheet account, the amount to be written off during a period of time through surplus. This depreciated original cost is the basis used by the regulatory bodies to develop a rate base upon which the utility may earn. (7-1-93)

07. The Income Approach to Value. (7-1-93)

a. The income approach to value should be used in conjunction with other recognized approaches when the property under appraisal is typically purchased in anticipation of a money income. It is the preferred approach for the appraisal of land when reliable sales data for comparable properties are not available. It is the preferred approach for the appraisal of improved real properties and personal properties when reliable sales data are not available and the cost approaches are unreliable because the reproducible property has suffered physical depreciation, functional or economic obsolescence, is a substantial over-or-under improvement, is misplaced, or is subject to legal restriction on income that is unrelated to cost. (7-1-93)

b. Using the income approach, an appraiser values an income

property by computing the present worth of future income. This present worth depends upon the size, shape, duration of the estimated income stream and upon the capitalization rate at which future income is discounted to its present worth. (7-1-93)

c. The income to be capitalized is the amount which an informed owner and informed buyer may anticipate on the lien date that the taxable property existing on that date will yield under prudent management and subject to such legal enforceable restrictions as such persons may foresee as of that date. This income is the amount of operating income or revenue left after paying operating expenses and certain other recognized obligations but before payment of any interest on debt or dividends on stock. These terms mean the net income available to all interests in the property, i.e., the debt holders and the stockholders. (7-1-93)

d. The income approach shall be used according to nationally accepted appraisal techniques. The direct capitalization techniques or derivatives thereof shall not be used in estimating the value for the income approach. ( )

08. Stock and Debt Approach to Value. (7-1-93)

a. Application. It is important to use the stock and debt approach to value in conjunction with other approaches to the unit value of property 1) when the value of the stock and debt can be adequately measured by reference to market transactions and 2) when the value of the property approaches the value of all the property of the enterprise or can be extracted from the value of all the property of the enterprise by means of reasonable allocation devices. The approach is based on the accounting concept that the value of the assets, property, of an enterprise equals the sum of the values of the enterprise's capital stock and its liabilities. (7-1-93)

b. Valuation of Stocks. The stocks to be valued are the outstanding shares of preferred and common stock other than those held by an affiliate included in the unit to be valued, plus any publicly held shares of such affiliates. The value of the shares of preferred or common stock is indicated by their market prices per share on the lien date, or the average prices per share over a recent relatively short period, multiplied by the number of shares outstanding on the lien date or at the end of the period. For shares traded over the counter, either the average of their bid-and-ask prices or their actual sales prices may be used as market prices. If neither market prices nor bid-and-ask prices are available for a stock that is a comparatively unimportant part of the capitalization, such stock may be valued by reference to preferred stock yields or common stock yields and price/earnings ratios for issues of comparable quality. (7-1-93)

c. Valuation of Current Liabilities. The current liabilities to be valued are those current and deferred liabilities that are actual legal obligations. The market value of these debts is indicated by their face or book value in the absence of evidence to the contrary. Contingent liabilities should be excluded unless there is evidence that they represent actual legal obligations. The objective is to include any obligation that purchasers of the total equity interest would assume, at the amount the purchaser would reduce the price he pays for the equity interest by reason of the obligation assumed. (7-1-93)

d. Exclusions. The market value of the stock plus the market value of the debts equals the value of the enterprise. When the enterprise owns nontaxable property, such as cash, receivables, and securities, or property assessable by other agencies, the enterprise value must be reduced by the amount these items are estimated to contribute to the stock and debt value in order to arrive at the market value of the assessable property. If the objective of the appraiser is to arrive at an indicator of the value of the taxable unitary property, the enterprise value must also be reduced by the value of any nonunitary property within the assessor's jurisdiction. (7-1-93)

e. Additions. The stock and debt value includes only the so-called bonus value of leased property, which may be positive or negative. Consequently, if leased properties are included in the unit that is being appraised, the capitalized net rental payments must be added to the stock and debt value to derive the unit value indicator. (7-1-93)

0~~4~~9. Method of Apportionment - Situs Property. ~~(7-1-93)~~( )

a. Property which is of such nature that it cannot be reasonably apportioned on the basis of rail, wire, or pipeline mileage shall be referred to as situs property. The word SITUS shall be interpreted as meaning the place where something exists. Undepreciated cost is considered by the Commission to be of prime importance and the basis of apportionment for such situs property to the county and district in which this property is situated. Property having this status is generally considered as being microwave stations and radio relay towers which are not physically connected with wires; fish facilities of an electrical power company where in such facilities are located in a district in which no wire miles exist; furniture and fixtures located in a district having no track, wire or pipeline miles. (7-1-93)

b. Leased machinery and equipment, leased land, buildings and improvements located thereon which are considered as being used as a stage of utility or materiality to the operating company's business are sitused to insure proper identification of property assessment. and billing of taxes to the lessee as well as the lessor. (7-1-93)

Adopted by the House February 7, 1996
Adopted by the Senate March 4, 1996

(H.C.R. No. 28)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING THE IDAHO POTATO EXPO, INC. FOR SUCCESS IN BRINGING INFORMATION ABOUT THE HISTORICAL, CULTURAL, ECONOMIC, NUTRITIONAL AND OTHER ASPECTS OF THE IDAHO POTATO TO PUBLIC ATTENTION.

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

WHEREAS, Idaho's Potato Exposition, Inc. is located in Blackfoot,

Idaho; and

WHEREAS, in the first summer of operation, 1990, the Expo attracted nearly 5,000 visitors, and in 1995, over 45,000 people from around the world toured the Expo; and

WHEREAS, the stated vision of the Expo is to be a leader in public education about potato growth and physiology, processing, nutrition, history and commerce and as a result of this leadership position and commitment to the potato industry, to bring prosperity to the communities and potato producers of Idaho; and

WHEREAS, nearly one and one-half million tourists travel I-15 each year, with a potential of stopping by the Potato Expo to learn more about the historical, cultural, economic, nutritional and other aspects of the Idaho potato; and

WHEREAS, J. R. Simplot, a recognized pioneer in the potato industry, has issued a new challenge to the Potato Expo through the gift of five acres where the Expo can build a bigger and better facility to attract and educate more visitors, which costs are to be met by private donations from business, industries, individuals and foundations.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize the importance of the Idaho Potato Expo and the contribution the Expo is making to the promotion of the Idaho Potato. We congratulate the Expo on the past successes they have experienced at their present location, and offer our support and endorsement of their efforts to enhance the effectiveness of the Expo at a new location.

Adopted by the House February 5, 1996
Adopted by the Senate February 12, 1996

(H.C.R. No. 29, As Amended)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO DEPARTMENT OF HEALTH AND WELFARE REGARDING DISCLOSURE OF DEPARTMENT RECORDS.

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 Second 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 16.05.01.105, relating to disclosure of department records be, and the

same is hereby amended to read as follows:

105. CHILD PROTECTION. (12-31-91)

01. Department Records. Department written records of investigations, evaluations, prognosis and all orders concerning disposition or treatment of every person over whom it has legal custody, must not be disclosed outside the Agency without a court order (Section 16-1623, Idaho Code). (Subsection 105.01. is more restrictive than present federal law as restated in Subsections 105.02. and 105.03., and therefore supersedes.) (12-31-91)

02. Grants - Programs. All records concerning reports of child abuse and neglect, in order to protect the rights of the child or his parents or guardians, may be disclosed only to the following agencies and persons: (12-31-91)

a. A legally mandated child protection agency which is investigating a report of known or suspected child abuse or neglect or which is treating a child or family who is the subject of a report or record; or (11-24-77)

b. A police or other law enforcement agency investigating a report of known or suspected child abuse or neglect; or (11-24-77)

c. A physician who has before him/her a child whom he reasonably suspects may be abused or neglected; or (12-31-91)

d. A person legally authorized to place a child in protective custody if such person has before him a child whom he reasonably suspects may be abused or neglected and if the information is required in a report or record to determine whether to place the child in protective custody; or (12-31-91)

e. An agency legally responsible or authorized to care for, treat or supervise a child who is the subject of a report or record; or (11-24-77)

f. Any person named in the report or record who is alleged to be abused or neglected; if the person named is a minor or is otherwise incompetent, his guardian ad litem; or (12-31-91)

g. A parent, guardian, or other person responsible for the welfare of a child named in a report or record, with protection provided for the identity of persons supplying the information and other appropriate persons; or (11-24-77)

h. A court, upon its finding that access to such records may be necessary for determination of an issue--such access must be limited to inspection before the judge in his private room or in the courtroom when all spectators are excluded--unless the court determines that public disclosure is necessary for the resolution of an issue then pending before it; or (11-24-77)

i. A grand jury upon its determination that access to such records is necessary in the conduct of its official business; or (11-24-77)

j. Any appropriate state or local official responsible for the child protective service or legislation carrying out his official functions; or (12-31-91)

k. Any person engaged in a bona fide research purpose, provided, however, that no information identifying the subjects of the report will be made available to the researcher unless it is absolutely essential to the research purpose and unless the appropriate

state official gives prior approval (45 CFR 1340.3-3(d)(5)). (Note controlling effect of Subsection 105.01.). (12-31-91)

03. Records of Programs Assisted Under Child Abuse Prevention and Treatment Act of 1974. Information obtained as to personal facts about individuals served by any demonstration, research, training or technical assistance project or program assisted under this Act must not be disclosed except as provided in Subsection 105.03.b. (45 CFR 1340.2-5(a)). (12-31-91)

a. Information to be protected includes lists of names, addresses, photographs and records of evaluation. (11-24-77)

b. The use of such information must be limited to purposes directly connected with the administration of these programs, including evaluations conducted under contract with the Department of Health, Education and Welfare. Such information must not be disclosed, directly or indirectly, other than for such a purpose and the purposes of Subsection 105.02., unless the written consent of the Department and the patient or client or his representative to whom the information applies has been obtained. No report or other documentation of these programs to be disclosed may contain individual identifying information without the written consent of the individual or his representative (45 CFR 1340.2-5(b)). (Note controlling effect of Subsection 105.01.). (12-31-91)

04. Child Abuse Report to Law Enforcement. (11-24-77)

a. Any physician, resident on hospital staff, intern, nurse, coroner, school teacher, day care personnel, social worker or other person, having reasonable cause to believe that a person under the age of eighteen (18) has been abused, or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, must report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency (Section 16-1619, Idaho Code). (11-24-77)

b. When a physician, resident, intern, nurse or day care worker is attending the child in the performance of services as a member of the staff of a hospital or similar institution, he must notify the person in charge of the institution, or his designated delegate, who must make the necessary reports (Section 16-1619, Idaho Code). (12-31-91)

c. Any person acting upon reasonable cause in the making of such a report will have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such person will have the same immunity with respect to participation in any judicial proceeding resulting from such report. Any person who reports in bad faith or from malice will not be protected from the provisions of this section (Section 16-1620, Idaho Code - For privileged communications in cases of child abuse and neglect, see Section 004.). (12-31-91)

05. Court Proceedings. Records of a court proceeding may be made available to the Department: (12-31-91)

a. When the Department is providing protective supervision or has legal custody of the child; or (11-24-77)

b. When it is proven to the court that disclosure to the Department:

i. is in the best interest of the child; or (11-24-77)

ii. is for the purpose of legitimate research in which case

the Department may not disclose identifying information (Section 16-1621, Idaho Code). (11-24-77)

06. Actions for Termination of Parent-Child Relationships. (11-24-77)

a. In actions for termination of parent-child relationships, social records must not be disclosed to the public except as determined by the court and then only to persons or agencies having a legitimate interest in the protection, welfare and treatment of the child. Social records include social service records of the court, investigations made by this Department upon direction of the court pursuant to Section 16-2008, Idaho Code, and related papers and correspondence which include medical, psychological and psychiatric studies or reports. Such records may be either in the possession of the court or this Department (Section 16-2013, Idaho Code). (11-24-77)

b. It is a misdemeanor for Department personnel to disclose, or allow to be disclosed, the information in Subsection 105.03.a., or allow any copy thereof to be made, without a court order while an action for termination is pending (Section 16-2013, Idaho Code). (12-31-91)

07. Notwithstanding any other section of these rules regarding access to child protection assessment, evaluation, treatment and/or disposition records of the department, duly elected state officials may access such records in the course of carrying out their official duties. Such disclosure is subject to the same standard of confidentiality that exists for access granted to others by law or department rule. ( )

Adopted by the House February 29, 1996
Adopted by the Senate March 11, 1996

(H.C.R. No. 30)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD REGARDING THE DEFINITION OF EMPLOY, EMPLOYED OR EMPLOYMENT OF A GUIDE.

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 Outfitters and Guide Licensing Board are not consistent with legislative intent.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the following rule of the Idaho Outfitters and Guides Licensing Board and IDAPA Title 25.01.01.002, relating to the definition of employ, employed or

employment of a guide be, and the same is hereby amended to read as follows:

002. DEFINITIONS. The Act defines certain terminology applicable to its interpretation and administration (Idaho Code 36-2102). Further definitions, for the purposes of these Rules are: (4-1-92)

01. Act. Shall mean Idaho Code, Title 36, Chapter 21, commonly known as the Outfitters and Guides Act, as amended. (4-1-92)

02. Authorized Person. An investigator or enforcement agent in the employ of the Board, a conservation officer of the Idaho Department of Fish and Game, or any local, state, or federal law enforcement officer. (4-1-92)

03. Board. The Idaho Outfitters and Guides Licensing Board. (4-1-92)

04. Board Meeting. The set schedule of meeting dates established for conduct of regular Board business on a calendar year basis. Additional meetings may be scheduled as necessary (See Section 071). (4-1-92)

05. Booking Agent. Any individual, firm, business, partnership, or corporation that makes arrangements for the use of the services of a licensed outfitter and receives compensation therefore. A booking agent does not supply personnel or facilities and services to outfitter clientele. (4-1-92)

06. Compensation. The receipt or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party shall not be deemed compensation. However, such out-of-pocket expenses may not include depreciation, amortization, wages, or other recompense. (4-1-92)

07. Completed Application. An application submitted for Board consideration which contains all of the material required to be submitted by the Board for that license category. (4-1-92)

08. Consideration. The receipt or taking of goods, services, or cash in exchange for the provision of facilities and services in the conduct of outfitted or guided activities. (4-1-92)

09. Desert. A region of scarce rainfall and vegetation in areas often having great differences between day, night and seasonal temperatures. A desert is a land surface ranging from level, plateau land, or undulating to sharply breaking hill-lands and sand dunes that, in addition, may be broken by poor to well-defined, deeply entrenched drainage systems, rims, cliffs, and escarpments. (4-1-92)

10. Designated Agent. An individual who meets all qualifications for an outfitter's license who is employed as an agent by any person, firm, partnership, corporation, or other organization or combination thereof that is licensed by the Board to operate as an outfitter and who shall, together with the licensed outfitter, be responsible and accountable for the conduct of the licensed outfitter's operations. The name of each designated agent employed by an outfitter shall appear on the outfitter's bond. A designated agent may act as a guide if he possesses the qualifications of a guide as determined by the Board. (Previously referred to as Managing Agent). (4-1-92)

11. Drift Boats. Shall be substituted for and have the same meaning as "float boats" defined below. (4-1-92)

12. Enforcement Agent. An individual employed by the Board having the power of peace officers to enforce the provisions of the Idaho Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and the Rules promulgated thereunder. (4-1-92)

13. Facilities and Services. The provision of personnel, lodging (tent, home, lodge, or hotel/motel), transportation (other than by commercial carrier), guiding, preparation and serving of food and equipment, or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designed in Idaho Code 36-2102(b). (4-1-92)

14. First Aid Card. A valid card issued by the American Red Cross to denote the individual whose name and signature appear thereon has successfully completed an applicable Red Cross course and is qualified to render appropriate, minimal first aid as prescribed by the American Red Cross, or other valid evidence showing successful completion of an equivalent course conducted by an organization acceptable to the Board. (4-1-92)

15. Fishing. Fishing activities, on those waters and for those species described in the Idaho Department of Fish & Game "General Fishing Seasons Rules" and any anadromous fishing rules; for purposes of the "Act", fishing is defined as follows: (4-1-92)

a. Anadromous fishing means fishing for salmon or steelhead trout. (4-1-92)

b. Float boat fishing means the use of floatboats without motors for the conduct of fishing as a major activity on those waters open to commercial activities as set forth in Section 059. (4-1-92)

c. Fly fishing means a licensed activity restricted to the use of fly fishing equipment and procedures, as defined by Idaho Department of Fish and Game rules. (4-1-92)

d. Incidental fishing means fishing conducted as a minor activity. (4-1-92)

e. Power boat fishing means the use of power boats in conduct of fishing as a major activity on those Idaho waters open to commercial outfitting activities as set forth in Section 059. (4-1-92)

f. Walk and wade fishing means fishing conducted along or in a river, stream, lake or reservoir, and may include the use of personalized floatation equipment, but does not include the use of watercraft. (4-1-92)

16. Float Boats. Watercraft (inflatable watercraft, dories, drift boats, canoes, catarafts, kayaks, sport yaks, or other small watercraft) propelled by, and moving with the stream flow, maneuvered by oars, paddles, sweeps, pike poles or by motors for downstream steerage only. Downstream steerage does not include holding or upstream travel of a watercraft with a motor. Excluded as float boats are personal floatation devices, innertubes, air mattresses, or similar devices. (4-1-92)

17. Guide. An individual who meets the criteria as set forth in Idaho Code 36-2102(c), and has further met the required qualifications as prescribed in the Rules to provide professional guided services to clientele in the pursuit and conduct of licensed activities. (4-1-92)

18. Guide License. A license issued by the Board to an individual who is employed by a licensed outfitter to furnish personal

services for the conduct of outdoor recreational activities as defined in Idaho Code 36-2102(c). (4-1-92)

19. Hazardous Excursions. Outfitted or guided activities conducted outside municipal limits in a desert or mountainous environment which may constitute a potential danger to the health, safety, or welfare of participants involved. These activities shall include, but are not limited to: day or overnight trailrides, backpacking, technical mountaineering/rock climbing, cross-country skiing, backcountry alpine skiing, llama packing, snowmobiling, survival courses, and motored and non-motored cycling. (5-1-95)

20. He/his/him. Shall mean either the male or female gender. (4-1-92)

21. Hunting. The pursuit of any game animal or bird and all related activities including packing of camp equipment, supplies, game meat and clients to and from a hunting camp. (12-30-93)

22. Incidental Activity. Shall be and is the same as a minor activity. (4-1-92)

23. Incidental Amendment. All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request. (4-1-92)

24. Investigator. An individual employed by the Board to monitor compliance with the provisions of the Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and Rules promulgated thereunder and issue warning tickets for violations thereof. An investigator shall not have arrest powers nor any other power of a peace officer. (4-1-92)

25. Major Activity. A licensed activity, the nature of which requires a significant commitment of time and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter. (4-1-92)

26. Major Amendment. All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request. (4-1-92)

27. Minor Activity. A licensed activity the nature of which may be carried out in conjunction with a major activity, but is not intended to provide a significant amount of income to an outfitter. (4-1-92)

28. Mountainous. A region receiving limited to abundant annual precipitation with an associated vegetative cover of grass, weeds, shrubs, or trees. Cool summer temperatures and cold winter temperatures prevail. A mountainous area is a land surface ranging from level to gently rolling low hills to elevated lands that are often broken with poor to well-developed, deeply entrenched drainage systems, rims, cliffs, and escarpments to steepsided land masses of impressive size and height. (4-1-92)

29. New Opportunity. A proposed commercial outfitted activity to be conducted in an area where no similar commercial outfitted activity has been conducted in the past. (4-1-92)

30. Nonresident. An individual, corporation, firm, or partnership who is not a resident of the state of Idaho.(See "Resident").

(4-1-92)

31. Nonuse. An outfitter's making zero use of major licensed activities for any two (2) of the three (3) preceding years. See Definitions, "Zero use", and Subsection 024.01. (4-1-92)

32. Operating Area. The area assigned by the Board to an outfitter for the conduct of outfitting activities. (4-1-92)

33. Operating Plan. A detailed schedule or plan of operation which an outfitter proposes to follow in the utilization of licensed privileges, areas, or activities. (See Subsection 018.03). (4-1-92)

34. Outfitter. An individual, corporation, firm, partnership, or other organization or combination thereof that meets the criteria as set forth in Idaho Code 36-2102(b), and has further met the required qualifications as prescribed in the Rules to conduct an outfitting business in Idaho. (4-1-92)

35. Outfitter License. A license issued by the Board to an individual, partnership, corporation, or other duly constituted organization to conduct activities as defined in Idaho Code 36-2102(b). NOTE: The conduct of an outfitted operation on any private land(s) within an operating area approved by the Board is not authorized unless signed permission/lease is obtained from the private land owner(s), or their agent(s), and filed with the Board. (4-1-92)

36. Out-of-Pocket Costs. The direct costs attributable to a recreational activity. Such direct costs shall not include: (1) compensation for either sponsors or participants, (2) amortization or depreciation of debt or equipment, or (3) costs of non-expendable supplies. (4-1-92)

37. Power Boats. All motorized watercraft used on Idaho waters open to commercial outfitting activities as set forth in Subsections 059.01 and 02. Excluded as power boats are hovercraft, jetskis or similar devices, and float boats using motors for downstream steerage. (4-1-92)

38. Relinquishment of License Privileges. The failure to reapply at the expiration of a license; the loss through nonuse, revocation, or voluntary surrender of a license; or other loss of license. (See Subsection 030.03.). (4-1-92)

39. Resident. An individual, corporation, firm, or partnership who has resided in the state of Idaho for a period of six (6) months next preceding the time of application for license. (4-1-92)

40. Rules. The Rules of the Board. (4-1-92)

41. Stay of Board Action. An order, pursuant to Idaho Code 67-5215(c), stopping or delaying the enforcement of a Board decision, order or action. (4-1-92)

42. Third Party Agreement. The allowing of the conduct of an outfitted or guided activity by the outfitter licensed to conduct those activities by any persons not directly employed by said outfitter. (See Section 023). (4-1-92)

43. Trainee. A person not less than sixteen (16) years of age who does not possess the necessary experience or skill qualifications required to obtain a guide license, but who is working toward obtaining the necessary experience or skill qualifications. This required training shall be recorded on a form provided by the Board. A trainee may not provide any direct guiding services for clients, but may assist while under direct supervision. (5-1-95)

44. Under Supervision. The trainee must be in a boat operated by a licensed boatman, or one in which the operation is closely monitored by a licensed boatman. The licensed boatman need not be in the same boat during training as long as the trainee's activity is closely monitored. (4-1-92)

45. Unethical/Unprofessional Conduct. Any activity(ies) by an outfitter or guide which is inappropriate to the conduct of the outfitting or guiding profession. These activities include, but are not limited to: an outfitter employing an unlicensed guide; providing false, fraudulent or misleading information to the Board; failure to provide services as advertised or contracted; harassment of the public in their use of Idaho's outdoor recreational opportunities; violation of state or federal fish and game laws; engaging in unlicensed activities or conducting outfitter/guide services outside the operating area for which the licensee is licensed; or disregard for the conservation, maintenance or enhancement of fish, game, land and water resources. (4-1-92)

46. Validated Training Form. An approved form bearing the "Great Seal of the State of Idaho" AND the official stamp of the Board affixed thereon. (4-1-92)

47. Watercraft. A boat or vessel propelled mechanically or manually, capable of operating on inland water surfaces. Excluded as watercraft are hovercraft, jetskis, personal floatation devices (PFD's), or similar devices. (4-1-92)

48. Zero Use. No or negligible use by an outfitter of his licensed activity unless the lack of use is due to an act of nature or season or hunting or fishing restrictions by a state or federal agency that limit the ability of the outfitter to seek and accommodate clientele. (4-1-92)

~~49.--Employ,-Employed,-or-Employment-of-a-Guide.--To--utilize the-service-of-another-to-perform-the-functions-of-a-guide-as-provided in--Subsection--002.17,--whether--as-a-direct-employee,-an-independent contractor,-or-in-any-other-manner.-It-is-not-necessary-that-the--persons--performing-such-function-receive-compensation,-directly-or-indirectly,-for-the-services-rendered-to-be-considered--employed--for--the purposes-of-this-act.~~ ~~(5-1-95)~~

Adopted by the House February 16, 1996
Adopted by the Senate March 14, 1996

(H.C.R. No. 31)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO CONDUCT A STUDY OF THE IMPACT OF FEDERAL AND STATE LAWS AND RULES AND REGULATIONS WHICH ADDRESS THE EDUCATION OF STUDENTS WITH DISABILITIES IN PUBLIC SCHOOLS.

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

WHEREAS, the members of the Second Regular Session of the Fif-

ty-third Idaho Legislature believe that the education of Idaho's children is a vital priority for our state; and

WHEREAS, in recent years parents, educators and policy makers have become increasingly aware of the needs of children with disabilities; and

WHEREAS, passage of federal legislation, including the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 coupled with significant decisions by the courts of our state and nation, have raised many issues among the citizens of Idaho regarding the rights of students and the responsibilities of school districts; and

WHEREAS, there are considerable state and federal resources targeted to provide assistance to students with disabilities and the Legislature desires to ensure adequate coordination of these resources; and

WHEREAS, educators report that significant opportunities and challenges exist with regard to implementing the goals of disability legislation in their classrooms; and

WHEREAS, the Legislature desires to assist in ensuring that every Idaho student receives a quality education.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 conduct a study of the impact of federal legislation, state and federal court decisions and state laws and rules which address the education of students with disabilities in Idaho's K-12 public schools.

BE IT FURTHER RESOLVED that the committee will address, at a minimum, the following questions:

1. What is the scope and intent of federal and state legislation designed to provide services to students with disabilities?

2. What federal or state resources, or both are available to educators or the State Department of Health and Welfare to deliver support services to students with disabilities and their teachers?

3. What barriers exist, if any, in ensuring that these resources are delivered effectively and efficiently to students with disabilities and their teachers and are these conflicting statutes, State Board of Education or Department of Health and Welfare rules, administrative practices in any of these agencies or inadequate teacher training or resources or overreaching federal law or regulations?

4. What recommendations for resolving these or any other problems that might be identified by the committee's study does the State Board of Education have?

BE IT FURTHER RESOLVED that the committee is requested, during the course of its study, to obtain input and recommendations at a minimum from the following individuals and organizations:

a. Members of the Legislature.
b. The Idaho Department of Education.
c. The Idaho Department of Health and Welfare.
d. The Idaho Association of School Administrators.
e. The Idaho School Boards Association.
f. The Idaho Education Association.
g. The Council on Developmental Disabilities.

h. Child Advocacy Groups.
i. The Idaho Parent-Teacher Association.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation to the First Regular Session of the Fifty-fourth Idaho Legislature.

Adopted by the House February 14, 1996
Adopted by the Senate March 14, 1996

(H.C.R. No. 32)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO STATE TAX COMMISSION RELATING TO THE DOCUMENTATION REQUIREMENTS FOR CLAIMING REFUNDS OF FUELS TAXES PAID ON FUEL USED BOTH ON AND OFF ROAD WHEN THE FUEL IS STORED IN A SINGLE BULK TANK.

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 the legislature finds that the rules were not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho State Tax Commission are not consistent with legislative intent.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the following rule of the Idaho State Tax Commission IDAPA 35.01.05.180, as amended by Docket No. 35-0105-9503, relating to documentation of refund claims for fuel taxes paid on fuel used off road is hereby amended to read as follows:

180. REFUND CLAIMS--DOCUMENTATION REQUIRED. (Rule 180.) (6-23-94)

01. Refunds to Consumers. Any buyer of motor fuels, claiming a refund under Chapter 24, Title 63, Idaho Code, must retain in his records, an original seller's invoice showing the number of gallons purchased. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or double-faced carbon shall be used between the original and first duplicate. Only one (1) original invoice may be issued for each delivery. In addition to the requirements outlined above, each invoice must contain or show the following: (6-23-94)

a. A pre-printed serial number; (6-23-94)
b. Name and address of seller; (6-23-94)
c. Name of purchaser; (6-23-94)
d. Date of delivery; (6-23-94)
e. Type of motor fuel; (6-23-94)
f. Gallons invoiced; (6-23-94)
g. Price per gallon; (6-23-94)
h. At least one of the following to establish that tax has

been charged: The amount of Idaho state fuels tax; the rate of Idaho state fuels tax; or a statement that the Idaho state fuels tax is included in the price. (6-23-94)

02. Corrected Invoices. No altered or corrected invoice will be accepted for refund purposes. When errors occur, the original invoice must not be altered or corrected, but must be voided and a new original invoice issued. All altered or corrected invoices must be marked as voided and retained by the seller for at least three (3) years from the date issued. (6-23-94)

03. Invoice Retention. The original invoices required by subsection 01 of this rule shall be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is subject to adjustment by either the Commission or by voluntary action of the taxpayer. (6-23-94)

04. Monthly Refund Claims. Any taxpayer entitled to a refund of motor fuels tax may file a refund claim monthly. Any refund due will be first applied to any liability due under any law administered by the Commission, including liabilities under IFTA, which is due and unpaid at the time the claim is filed. In addition, no refund will be paid if the claimant has failed to file any tax return required to be filed with the Commission. (6-23-94)

05. Refund Applied to Taxes Due. Refunds of motor fuels taxes shall be claimed on the Idaho Income Tax Return filed by the person who was the final purchaser and consumer of motor fuels upon which the tax has been paid and for which a refund may be claimed. If any taxes are due under the Idaho Income Tax Act, including any Permanent Building Fund Tax, the refund will be first applied to the taxes due. Any balance of refund exceeding any taxes due shall be paid as a refund to the entity filing the return. In the case of all partnerships and any corporations filing Idaho Form 41S, relating to S Corporations, any refund of motor fuels taxes paid by the partnership or S Corporation must be claimed by the partnership or corporation. The refund may not be applied to the individual returns filed by partners or shareholders. (6-23-94)

06. Refunds to Distributors. Refund claims filed under Section 63-2410(4), Idaho Code, by licensed distributors shall be filed in the manner provided in Rule 240 of these rules relating to refunds by special fuels dealers and such claims shall be subject to the provisions of that rule. (6-23-94)

07. Refund Documents. For refund claims under section 63-2410(5)(c), Idaho Code, an original invoice includes any duplicate of the original that is created with the same impression as the original, for example, with carbon paper or NCR paper, if the original is retained by the seller and only the duplicate provided to the customer. An original invoice does not include any document produced by a copy machine or similar device capable of producing a copy of an existing document. (6-23-94)

08. Records Required for Motor Fuels Tax Refunds. Each claimant shall maintain records that are sufficient to prove the accuracy of the claim. Such records shall reflect all motor fuels receipts, the gallons of fuel used in each type of equipment, both refundable and nonrefundable, and other uses. The records must show the date of receipt or disbursements and identify the equipment into

which the fuel is dispensed. Failure of the claimant to maintain the required records and to provide them for examination, is a waiver of all rights to the refund. The following rules shall govern records maintained to support claims for refund. (6-23-94)

a. Use of Fuel from a Single Storage Tank. Fuel (other than fuel purchased by persons who are licensed under IFTA or permitted under Section 63-2438, Idaho Code), purchased and delivered into bulk storage and withdrawn for ~~any use~~ both nontaxable and taxable uses, must be ~~fully~~ accounted for using ~~some method to determine~~ either the proration provided by this paragraph or by records showing actual taxable and nontaxable usage. If the proration is used, sixty percent (60%) of all taxed diesel fuel or twenty-five percent (25%) of all taxed gasoline delivered into bulk storage shall be presumed to be for exempt uses unless another amount is requested by the taxpayer and authorized by the Commission. The request shall itemize anticipated uses by type of equipment based on previously experienced use. The Commission will refund taxes paid on the percentage of taxed fuel presumed to be exempt. If refunds are claimed based on records of actual use, the ~~r~~Records must be made available upon request. In either case, invoices ~~for~~ showing the total fuel purchased on which tax was paid must be retained to support each refund claim. ~~(6-23-94)~~( )

b. Use of Fuel from Multiple Storage Tanks. When separate bulk storage tanks are maintained for both exempt and taxable uses, the seller must mark the invoices at the time of delivery identifying the storage tanks into which the fuel was delivered. Detailed withdrawal records will only be required if fuel is used by permitted motor vehicles that are subject to special fuels use tax reporting. Purchases must be reported and all invoices must be retained. Exempt fuel may not be used in motor vehicles licensed or required to be licensed. (6-23-94)

c. Use of Fuel for Other than Bulk Storage. Fuel dispensed into the supply tank, or small containers for use in, stationary engines, equipment, commercial motor boats, or vehicles, other than motor vehicles, must be identified on the purchase invoice. No other records will be required. (6-23-94)

d. Exempt Uses of Gasoline. The exempt uses are operating stationary engines, commercial motor boats, and propelling equipment or vehicles, other than motor vehicles. (6-23-94)

e. Exempt Uses of Special Fuels. In general, any use of special fuels is exempt, except propelling or operating a motor vehicle on a highway. (6-23-94)

Adopted by the House February 15, 1996
Adopted by the Senate March 14, 1996

(H.C.R. No. 33)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO PERSONNEL COMMISSION REGARDING SICK LEAVE.

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 Personnel Commission are not consistent with legislative intent.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the following rule of the Idaho Personnel Commission IDAPA Title 28.01.01.240, be, and the same is hereby amended to read as follows:

240. SICK LEAVE. (7-1-93)

01. Eligibility. All classified employees regardless of status or whether full-time or part-time shall earn sick leave and be eligible to take sick leave in accordance with Section 67-5333, Idaho Code. Sick leave shall only be taken in pay periods subsequent to being earned. (7-1-87)

02. Interdepartmental Transfer. An employee who is transferred from one (1) state department to another shall be credited by the receiving department with the amount of sick leave accrued at the time of transfer. The amount of such accrued leave shall be shown on the transaction documents separating the employee from one (1) department and appointing him or her in the other. (4-5-85)

03. Reasons for Use. Sick leave shall only be used in cases of actual illness or disability or other medical and health reasons necessitating the employee's absence from work, or in situations where the employee's personal attendance is required or desired because of serious illness, disability, or death and funeral in the family. For purposes of this rule, family means a spouse, child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage. ~~(4-5-85)~~( )

04. Medical, Dental or Optical Appointments. An employee shall be allowed up to two (2) hours for each occasional appointment without charge to sick leave for personal or family-member medical, dental or optical examination or treatment. An appointing authority may limit the frequency that this rule may be used by an employee. (4-5-85)

05. Notification. It is the responsibility of the employee to notify his or her supervisor as soon as possible in the event of sickness or injury which prevents the employee from reporting for duty. (4-5-85)

Adopted by the House February 16, 1996
Adopted by the Senate March 4, 1996

(H.C.R. No. 34)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND PROVIDING THAT THE WATER RESOURCE BOARD SHALL ACT AS A SPONSOR AND COST-SHARING PARTNER WITH THE U.S. ARMY CORPS OF ENGINEERS IN THE EVALUATION AND CONSTRUCTION OF THE LITTLE WOOD RIVER PROJECT UPON SUFFICIENT FUNDING BEING APPROPRIATED.

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

WHEREAS, it is the finding of the Legislature that the Little Wood River Project was authorized for construction by the Water Resources Development Act of 1986 (Public Law 99-662) based on the Big Wood River and Tributaries, Idaho Feasibility Report, dated September, 1976.

WHEREAS, the proposed project is located generally in the vicinity of the cities of Gooding and Shoshone in Gooding and Lincoln Counties. The project is a flood control project consisting of diversion, channel and ponding facilities in two separate locations to provide off-stream diversions of the Little Wood River flood flows into adjacent lava fields via the Dietrich and Milner-Gooding Canals.

WHEREAS, the Dietrich Canal diversion is located approximately one mile south of the City of Richfield, Idaho. The Milner-Gooding Canal diversion is located approximately two and one-half miles northwest of the City of Shoshone, Idaho. The floodwater in the ponding areas will eventually be lost to percolation and evaporation. The Dietrich Canal diversion plan will consist of replacing a small dam on the Little Wood River, modifying the existing Dietrich diversion headworks, increasing the capacity of approximately 3,000 feet of the Dietrich Canal, constructing a new diversion channel on the canal, excavating a 11,500 foot diversion channel and constructing a small impoundment dike and spillway to form a ponding area of 6,000 acre-feet.

WHEREAS, the Milner-Gooding Canal diversion consists of a diversion structure on the existing Milner-Gooding Canal and a small channel leading to a natural ponding area in the lava fields. Since the feasibility study, a local groundwater recharge district has constructed a facility on the Milner-Gooding Canal similar to and at the same location as the authorized project. Credit for this facility is being allowed under Section 104 of Public Law 99-662.

WHEREAS, the Aquifer Recharge Diversion is located north of the City of Shoshone where the Aquifer Recharge District will divert water from the canal into the fractured lava beds, offering a ponding area for high flood flows and a natural recharge to the region's aquifer; and

WHEREAS, the Gooding Safetyway, located east of the City of Gooding requires the installation of a flood flow gauge device to enable the diversion of high flood flows from the Little Wood River north into the adjacent lava bed area, increasing flood control and recharging the region's aquifer; and

WHEREAS, the Gooding Canal, located in the City of Gooding, requires the existing rock canal walls be repaired to sustain the high

flood flows as well as offer increased control over the spring thawing of iced surface waters, and relief of silt build-up; and

WHEREAS, the Dietrich Canal project sites require water diversion into aquifer recharge areas and this diversion of water will have limited impact upon the site's riparian areas. By prior agreement, the Corps has agreed to utilize its own resources and purchase these affected areas, causing them to be revitalized into natural preserve areas for the local wildlife and flora.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Water Resource Board shall act as a sponsor and cost-sharing partner with the U.S. Army Corps of Engineers in the evaluation and construction of the Little Wood River Project upon sufficient funding being appropriated to the Water Resource Board and the Department of Water Resources to effectuate this purpose.

Adopted by the House February 16, 1996
Adopted by the Senate March 5, 1996

(H.C.R. No. 35)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO STATE TAX COMMISSION RELATING TO THE DOCUMENTATION REQUIREMENTS FOR CLAIMING REFUNDS OF FUELS TAXES PAID ON FUEL CONSUMED IN OFF-ROAD OPERATIONS BY VEHICLES PERMITTED UNDER SECTION 63-2438, IDAHO CODE.

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 the Legislature finds that the rules were not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho State Tax Commission are not consistent with legislative intent.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the following rule of the Idaho State Tax Commission IDAPA 35.01.05.400.06 be, and the same is hereby amended to read as follows:

06. Special Fuels Tax Returns. Holders of special fuels permits will be required to file monthly, quarterly, semi-annually or annual special fuels tax returns with the Commission. The return is due on the last day of the month following the end of the period to which the return relates. The return form will require that the taxpayer report: (6-23-94)

a. Fleet Miles. The total miles traveled both within and without Idaho by permitted vehicles during the reporting period. As

used in this rule, the term Idaho permitted vehicle means a motor vehicle which displays, or is required to display, a valid Idaho special fuels decal. (6-23-94)

b. Fleet Fuel. The total number of gallons of fuel delivered into the supply tanks of all Idaho permitted vehicles during the reporting period. (6-23-94)

c. The Fleet Miles per Gallon. The fleet miles per gallon shall be computed by dividing gallons reported according to subsection 06.b. of this rule into the number of miles reported according to subsection 06.a. of this rule. Round the fleet miles per gallon to the nearest hundredth (0.00). The computation of fleet miles per gallon should be carried to three (3) decimal places and rounded to two (2) decimal places. Example: 4.514 = 4.51 and 4.515 = 4.52. In the event that the permit holder fails to keep sufficiently detailed records showing the number of miles actually operated per gallon of special fuel consumed, it shall be presumed that not less than one (1) gallon of special fuel was consumed for every: Four (4) miles traveled by vehicles over forty thousand (40,000) pounds gross registered vehicle weight, or five and one-half (5 1/2) miles traveled by vehicles from twenty-six thousand one (26,001) to forty thousand (40,000) pounds gross registered vehicle weight. (6-23-94)

d. The Total Miles Traveled in Idaho. Only miles traveled on Idaho highways by Idaho permitted vehicles must be reported pursuant to this subsection. Miles traveled on the roadways described in this subsection may be excluded from total highway miles traveled in Idaho if, and only if, the operator of the specific vehicle is required to bear the cost of constructing or maintaining the roadway for the use of the roadway pursuant to a contract or permit. To claim the exclusion permitted by this subsection, the special fuels permit holder must maintain records documenting roadway miles traveled that are qualified for exclusion under this provision. The roadways referred to in this subsection are those constructed and maintained by: The United States Forest Service; the United States Bureau of Land Management; the Idaho Department of Lands; or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Chapter 1, Title 38, Idaho Code. (6-23-94)

e. The Number of Gallons of Special Fuels Consumed in Idaho. The gallons consumed in Idaho shall be computed by dividing the fleet miles per gallon determined according to subsection 06.c. of this rule into the total Idaho miles reported according to subsection 06.d. of this rule. (6-23-94)

f. Off-loading Allowance. When special fuel from the main supply tank of a motor vehicle subject to this rule is used for purposes other than to operate or propel the motor vehicle, such as fuel used to turn a vehicle mounted cement mixer or to off-load product, the number of gallons of fuel actually delivered into the fuel tank of the vehicle can be reduced by the following allowances: (6-23-94)

i. Gasoline/fuel oil: 1.5 gallons per 10,000 gallons pumped; (6-23-94)

ii. Bulk cement: 4 gallons per 22.5 tons pumped; (6-23-94)

iii. Lime: 3.14 gallons per hour; (6-23-94)

iv. Calcium crystals: 4.13 gallons per hour; (6-23-94)

v. Concrete: 1 gallon per 5 cubic yards; (6-23-94)

vi. Refrigeration Unit (Reefer): .75 gallon per hour; (6-23-94)

vii. Grain (dairy pellets): .13 gallon per ton; (6-23-94)

viii. Grain meal (mash): .225 gallon per ton; (6-23-94)

ix. Pulp: .53 gallon/cord; 1.89 cords/gallon; 4.73 gallons/hour; (6-23-94)

x. Tree length pulp: .0503 gallon/ton; 19.88 tons/gallon; 3.46 gallons/hour. (6-23-94)

g. The amount of fuel reported shall be the net figure of gallons, as defined in subsection 06.b. of this rule, consumed after deduction of the gallons allowed for the off-loading allowance. (6-23-94)

h. Off-loading allowances listed above may be granted for IFTA accounts but must be applied for separately from the IFTA quarterly reports. Allowances must be claimed according to the procedure found in Rule 250 of these rules. (6-23-94)

i. An off-loading allowance, which is not listed in this rule shown above, must be submitted by the taxpayer to the Tax Commission for approval before being used. Taxpayers must request approval of the off-loading allowance in writing along with a copy of the calculations used to compute the allowance. Taxpayers must send requests for approval to:

FUELS TAX POLICY SPECIALIST
LEGAL SECTION
IDAHO TAX COMMISSION
P. O. BOX 36
BOISE, ID 83722
(208) 334-7530 (6-23-94)

j. The amount of tax due shall be computed by multiplying the gallons computed according to subsection 06.e. of this rule by the tax rate established by Section 63-2405, Idaho Code. (6-23-94)

k. Additional amounts of penalty and interest as may be required by law. (6-23-94)

l. Special Rule for Trucks Used Both On and Off Public Highways. Operators of trucks permitted under Section 63-2438, Idaho Code, (but not under IFTA) may, in making the computations provided in paragraph .06.c, of this rule presume that when operating the following trucks on roads that are public highways, such trucks consume fuel at the following rate:

Logging trucks	4.3 MPG	
Agricultural uses	4.5 MPG	
Sand, gravel & rock hauling	4.0 MPG	
Construction	4.4 MPG	( )

m. If an operator has reason to believe a standard for on-road miles per gallon in paragraph 06.l is not an accurate reflection of his specific operation, the operator can calculate an actual MPG using the computations provided in paragraph .06.c of this rule. ( )

Adopted by the House February 21, 1996
Adopted by the Senate March 8, 1996

(H.C.R. No. 36)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND AMENDING AND EXTENDING RULES OF THE IDAHO DEPARTMENT OF AGRICULTURE REGARDING POTATO BLIGHT.

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 Department of Agriculture relating to potato blight are not consistent with legislative intent; and

WHEREAS, it is the further finding of the Legislature that the rules in question were promulgated as temporary rules and should be extended, as modified herein, until final rules become effective; and

WHEREAS, it is the further intent of the Legislature that the final rule contain the changes indicated herein.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that rules of the Idaho Department of Agriculture, IDAPA 02.06.33.001 and IDAPA 02.06.33.150 as promulgated by Docket No. 02-633-9503, relating to the late blight of potato Solanum Tuberosum L., be, and the same are hereby amended to read as follows:

001. TITLE AND SCOPE.
The title of this chapter is Idaho Rules Concerning the Late Blight of Potato Solanum Tuberosum L., under the Division of Plant Industries, Bureau of Feeds and Plant Services. This chapter has the following scope: The rules prevent the spread of late blight of potato in the state of Idaho by limiting the importation of certain regulated products. Only seed potatoes with ~~zero~~ one percent or less tolerance for late blight based on field and shipping point inspections and winter tests, with a shipping point certificate issued by the seed certification agency of the state or foreign country of origin will be allowed into the state of Idaho. The rules require any person receiving potatoes from late blight infested areas to notify the Idaho Department of Agriculture in writing and to submit a written cull disposal plan to the Department. Additionally, the rules specify the dates for rendering cull piles non-viable, and provide for an exemption and for the disposition of violations. ~~(9-15-95)T~~( )

150. RESTRICTIONS.

01. Notification of Director. Any person in a late blight free area in Idaho receiving potatoes from a late blight infested area shall notify the Director in writing and submit to the Director a written cull pile disposal plan on a form prescribed by the Director. (9-15-95)T

02. ~~Zero~~ One Percent or Less Tolerance. Only seed potato

lots with ~~zero~~ one percent or less tolerance for late blight based on field and shipping point inspections and winter tests shall be shipped to or planted in Idaho. ~~(9-15-95)T~~( )

03. Certification Requirement. Each shipment of a seed potato lot from a late blight infested area shall be accompanied by a certificate issued by the seed certification agency of the state or foreign country of origin. (9-15-95)T

04. Non-Certified Potatoes. Non-certified potatoes produced in Idaho to be planted in Idaho shall have been produced in a late blight free area and from certified seed stock. The grower shall notify the Director in writing when non-certified potatoes are used for planting. (9-15-95)T

05. Eliminators. Eliminators may be used as seed potatoes provided they are: (9-15-95)T

a. Planted by the grower who produced them; and (9-15-95)T

b. Produced from certified parent seed stock; and (9-15-95)T

c. Eliminated at the original grower's storage shed. (9-15-95)T

06. Cull Piles. All cull piles generated from potatoes produced in late blight infested areas and shipped to a late blight free area in Idaho shall be rendered non-viable daily until September 20, 1995. (9-15-95)T

07. September 20, 1995. After September 20, 1995, all cull piles west of the Raft River shall be rendered non-viable by April 15, 1996, and those cull piles east of the Raft River shall be rendered non-viable by May 15, 1996. (9-15-95)T

08. April 5, 1996. After April 15, 1996, all cull piles west of the Raft River shall be rendered non-viable daily, and those cull piles east of the Raft River shall be rendered non-viable daily after May 15, 1996. (9-15-95)T

NOW, THEREFORE, BE IT FURTHER RESOLVED that the rules of the Idaho Department of Agriculture, IDAPA 02.06.33, as modified herein, be, and the same are hereby approved and extended and shall remain in effect until final rules which contain the changes herein approved become effective.

Adopted by the House February 13, 1996
Adopted by the Senate February 22, 1996

(H.C.R. No. 37)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND TO PROVIDE IT IS NOT THE POLICY OF THE STATE OF IDAHO TO RECOGNIZE AS VALID THE CONCEPT OF FLOW AUGMENTATION AND THE DRAWING DOWN OF IDAHO'S WATERWAYS AND RESERVOIRS FOR THE PURPOSE OF SNAKE RIVER BASIN SPECIES RECOVERY PROGRAMS.

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

WHEREAS, the State of Idaho is one of the northwest states dealing with the listing of several salmon species as endangered under the

Endangered Species Act of the U.S. Government; and

WHEREAS, the plan to recover the listed salmon is not final and has included many proposals that are not based on any demonstrated benefit to salmon recovery, including reservoir drawdowns and massive flow augmentations; and

WHEREAS, the Endangered Species Act does not properly account for negative social and economic impacts that result from a proposed recovery plan; and

WHEREAS, drawdowns of Idaho reservoirs would breach the social contract that ensures benefits of transportation, irrigation, recreation, flood control, local fisheries and other benefits in exchange for the loss of natural streams; and

WHEREAS, the decline of fisheries' stocks is documented throughout the west coast region on many streams and rivers, the majority of which have no dams or reservoirs between spawning grounds and the ocean; and

WHEREAS, the reservoir drawdowns and flow augmentations have had a documented negative effect on the communities, and on recreation, irrigation and transportation activities, all of which are vital to the stability and quality of life in Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that we do hereby declare any Snake River Basin Species Recovery Program must be premised upon a recognition of Idaho state water law and policy, and the State of Idaho does not support the use of flow augmentations and the drawing down of Idaho's waterways and reservoirs as a long-term solution for Snake River Basin Species Recovery Programs.

Adopted by the House February 23, 1996
Adopted by the Senate March 11, 1996

(H.C.R. No. 38, As Amended)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING CERTAIN RULES OF THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES GOVERNING ELECTRICAL INSPECTION TAGS REGARDING ELECTRICAL LICENSING EXEMPTIONS FOR RESIDENTIAL REAL PROPERTY OWNERS AND MAINTENANCE ELECTRICIANS.

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 Department of Labor and Industrial Services governing electrical inspection tags regarding electrical licensing exemptions for residential real property owners and maintenance electricians are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that rules of the Department of Labor and Industrial Services, Title 01, Chapter 01, governing electrical inspection tags, and regarding electrical licensing exemptions for residential real property owners and maintenance electricians, IDAPA 07.01.01.013.01, be, and the same is hereby amended to read as follows:

01. Installations on Primary or Secondary Residence for Private Use. Natural persons making electrical installations on their own residential rental property or on their own primary or secondary residence and associated buildings~~, so long as said property is maintained for their own use and not for the use of the general public~~. This exemption shall not apply to electrical installations for swimming pools, hot tubs, spas, hydromassage tubs, fountains, and similar installations, Article 680 NEC, or any hazardous location, Article 500 through 514 NEC. ~~(2-23-94)~~( )

Adopted by the House February 29, 1996
Adopted by the Senate March 11, 1996

(H.C.R. No. 40)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING ACCEPTANCE OF PRIVATE AND GRANT FUNDS BY THE STATE BOARD OF EDUCATION FOR CONSTRUCTION OF AN ENGINEERING BUILDING AT BOISE STATE UNIVERSITY.

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

WHEREAS, the State Board of Education has authorized and established engineering programs at Boise State University; and

WHEREAS, there currently are no state funds available to construct an engineering building to house those activities at Boise State University; and

WHEREAS, private industry and other donors have to date made commitments for partial funding and expressed interest in making further donations of funds to accomplish construction of such building at Boise State University.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that pursuant to Section 33-3805A, Idaho Code, we authorize the State Board of Education and Boise State University to accept private and grant funds for the construction of an engineering building at Boise State University, and to proceed with construction.

Adopted by the House Feburary 16, 1996
Adopted by the Senate February 21, 1996

(H.C.R. No. 41)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING THE EFFECTIVENESS OF THE EDDIE EAGLE GUN SAFETY PROGRAM OF THE NATIONAL RIFLE ASSOCIATION AND OTHER FIREARM SAFETY EDUCATION PROGRAMS AND ENCOURAGING ADOPTION OF THESE PROGRAMS IN THE SCHOOL SYSTEM.

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

WHEREAS, the loss of a child as the result of a firearm accident is a tragic event, made even more so because it is often preventable; and

WHEREAS, currently, our nation has approximately 60 million gun owners and an estimated 200 million firearms in private ownership that are potential accidents waiting to happen in the hands of an unsuspecting child; and

WHEREAS, many children play with toy guns that closely resemble real weapons and watch television programs and movies that routinely portray irresponsible and unsafe handling of guns, which are factors that tend to blur the distinction between make-believe and reality, and encourage unsafe behavior; and

WHEREAS, the National Rifle Association Eddie Eagle Gun Safety Program teaches fundamentals of firearm safety to children in an effective and enjoyable way, emphasizing correct safety procedures through numerous activities and materials including workbooks, games, a video, class discussions, and role playing scenarios; and

WHEREAS, participating children receive certificates of merit and stickers and posters of Eddie Eagle, the program's loveable feathered mascot, in addition to invaluable safety training that could save a life; and

WHEREAS, this worthwhile program is gaining popularity in many of the areas in the state, law enforcement agencies are adopting the Eddie Eagle Program, and many of the materials are made available free or at nominal cost; and

WHEREAS, teaching children to act safely around firearms is a critical step in the effort to reduce the number of firearm accidents among children.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize the many excellent accomplishments of the Eddie Eagle Program, and, in view of the great need for the lessons that are taught, we encourage the use of the Eddie Eagle Safety Program and other firearm safety education programs in the school system to help prevent firearm accidents among children.

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives be, and she is hereby directed, to forward a copy of this Resolution to the Superintendent of Public Instruction as a formal expression of the sentiment of the Idaho Legislature.

Adopted by the House February 26, 1996
Adopted by the Senate March 14, 1996

(H.C.R. No. 42)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS REGARDING OUTDOOR RECREATION AND THE OPPORTUNITY FOR THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH THE UNITED STATES BUREAU OF RECLAMATION TO OPERATE ESTABLISHED CAMPGROUNDS AND DAY USE AREAS AT CASCADE RESERVOIR IN VALLEY COUNTY, AND RESOLVING THAT WHEN ECONOMIC CONDITIONS PERMIT MONEY FROM THE STATE GENERAL FUND BE PROVIDED TO ENTER INTO AN AGREEMENT AND OPERATE THE AREAS.

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

WHEREAS, outdoor recreation provides important economic, social, personal and resource benefits; and

WHEREAS, Idahoans have a great need for diverse outdoor recreation facilities and programs associated with local governments, as well as those provided by the natural resources of this state; and

WHEREAS, tourists are visiting Idaho in record numbers to experience the state's diverse recreation opportunities and natural resources; and

WHEREAS, the United States Bureau of Reclamation has established sophisticated, attractive and safe campgrounds and day use areas at Cascade Reservoir in Valley County; and

WHEREAS, the United States Bureau of Reclamation has been determined by the General Accounting Office to be without the authority to operate those campgrounds and day use areas and has been ordered to divest itself of those areas; and

WHEREAS, the United States Bureau of Reclamation has attempted to enter into an agreement with the Idaho Department of Parks and Recreation regarding the use and management of those campground and day use areas and is willing to contribute to the costs of operating the areas; and

WHEREAS, the Idaho Department of Parks and Recreation has been unable to enter into an agreement because of financial limitations and has calculated that after the first year ongoing costs associated with managing the areas would be approximately $240,050; and

WHEREAS, the City of Cascade and Valley County rely greatly on revenues produced by recreational services and attractions for residents and tourists and are searching for ways to promote economic development; and

WHEREAS, the citizens and officials from Valley County and the City of Cascade support an agreement between the United States Bureau of Reclamation and the Idaho Department of Parks and Recreation regarding the use and management of the campgrounds and day use areas at Cascade Reservoir.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Repre-

sentatives and the Senate concurring therein, that to the extent possible and when conditions permit, money from the state General Fund be provided to the Idaho Department of Parks and Recreation to enter into an agreement with the United States Bureau of Reclamation to manage the campgrounds and day use areas at Cascade Reservoir in Valley County.

Adopted by the House February 26, 1996
Adopted by the Senate March 14, 1996

(H.C.R. No. 43)

A CONCURRENT RESOLUTION
PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND 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 Second Regular Session of the Fifty-third Idaho Legislature in the Chamber of the House of Representatives at 12:00 p.m. on Tuesday, February 20, 1996.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second 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 Tuesday, February 20, 1996, at 12:00 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House February 20, 1996
Adopted by the Senate February 20, 1996

(H.C.R. No. 45)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE REGARDING MEDICAL SAVINGS ACCOUNTS AND RESOLVING THAT THE IDAHO DEPARTMENT OF ADMINISTRATION IS DIRECTED TO SOLICIT BIDS FOR ESTABLISHING A MEDICAL SAVINGS ACCOUNT PROGRAM AND PROVIDING CERTAIN DETAILS FOR THE PROGRAM.

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

WHEREAS, medical savings account programs are available as alternatives to traditional health care payment and coverage programs; and

WHEREAS, medical savings account programs have been created in Ada County and are growing in popularity throughout the country; and

WHEREAS, Idaho is a leader in health care reform; and

WHEREAS, medical savings account programs offer participants greater choice and flexibility in how they choose and pay for health care; and

WHEREAS, medical savings account programs have the potential to save public employers like the state of Idaho, and its employees, a large amount of money.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that before January 1, 1997, the Idaho Department of Administration is directed to solicit at least three bids for establishing a medical savings account program for health care coverage and payment for the employees of the state of Idaho. The program must be comparable in quality to the current health care plan providing for an annual deductible limit of one hundred ten dollars, and must provide the following: a two thousand dollar annual deductible limit for an individual; a two thousand five hundred dollar annual deductible limit for a two person household; a three thousand dollar deductible limit for a household containing a state employee, spouse and children; and no copayment after annual deductibles are met.

Adopted by the House March 5, 1996
Adopted by the Senate March 12, 1996

(H.C.R. No. 48)

A CONCURRENT RESOLUTION
RECOGNIZING AND COMMENDING THE ALBERTSON COLLEGE OF IDAHO COYOTE MEN'S BASKETBALL TEAM, THE 1995-96 NAIA DIVISION II CHAMPIONS.

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

WHEREAS, Albertson College of Idaho in Caldwell, Idaho, is the oldest four year higher education institution in the State of Idaho and has an undergraduate enrollment of approximately 800; and

WHEREAS, Albertson College of Idaho was named as a "best buy" by U.S. News & World Report and offers a nationally recognized academic program; and

WHEREAS, on March 12, 1996, the Albertson College of Idaho Coyotes achieved the culmination of a dynamic basketball season by winning the NAIA Division II Championship, defeating Whitworth College 81-72; and

WHEREAS, Athletic Director and Men's Basketball Coach, Marty Holly, is the winningest coach in the history of Albertson College of Idaho and has led the team into post-season play in each of his 15 years at Albertson; and

WHEREAS, the membership of the basketball team includes not less than 11 individuals who graduated from Idaho high schools, seven graduating seniors, and represents the positive ideals of college athletics in emphasizing academics and sportsmanship; and

WHEREAS, the purple and gold clad Albertson College of Idaho Coy-

otes swept through five games in the national tournament to become the first men's basketball team representing a four year institution in Idaho to win a national basketball championship.

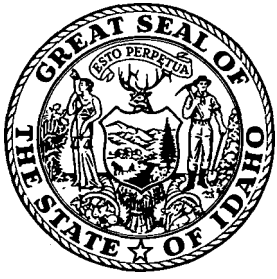
NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that we extend to Albertson College of Idaho and the Coyote Men's Basketball Team our enthusiastic congratulations on the victorious season which has culminated in winning the NAIA Division II Championship. We commend the Coyotes on their gritty determination, their dedication to the task at hand, and their competitive spirit which led to their success.

Adopted by the House March 14, 1996
Adopted by the Senate March 15, 1996

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, Second Regular Session thereof, which convened January 8, 1996, and which adjourned March 15, 1996, 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 23rd day of April, 1996.

Pete T. Cenarrusa
Secretary of State

When errors appear in the enrolled bills received from the Legislature at the office of the Secretary of State, this office has no authority to correct them.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 95-04

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. 94-09

WHEREAS, the "Job Training Partnership Act" as amended by the Job Training Reform Amendments Act of 1992" mandates designation of a state organizational unit to be responsible for oversight and management of a statewide comprehensive labor market and occupational supply and demand information system as a condition for receipt of federal funds for this sort of activity; and

WHEREAS, participating states are to design comprehensive, cost-efficient labor market and occupational supply and demand information systems that

1. Are responsive to the economic demand and education and training supply support needs of the state and areas within the state; and
2. Meet the federal standards under Chapter 35 of Title 44, United States Code, and other appropriate federal standards established by the Bureau of Labor Statistics; and

WHEREAS, the state's system must standardize available federal and state multi-agency administrative records and direct survey data sources to produce an employment and economic analysis with the published set of projections for the state and designated areas within the state, which shall be used to contribute in carrying out the provisions of the "Job Training Partnership Act As Amended," the "Carl D. Perkins Vocational and Applied Technology Education Act of 1990," and the "Act of June 6, 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, the Idaho State Occupational Information Coordinating Committee operates a statewide computerized information system, which provides career information to state agencies, area public agencies, libraries, and private not-for-profit users, and individuals who are in the process of making career decision choices;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me by the Constitution and Laws of the State of Idaho, do hereby continue the designation of the Idaho Department of Employment as the organizational unit 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 for coordinating and disseminating occupational supply and demand information, state and local career information, and training and technical assistance to support comprehensive career guidance program.

This Executive Order repeals and replaces Executive Order No. 94-09.

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 Capitol in Boise on this the first day of May, 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. 95-5

ESTABLISHMENT OF THE GOVERNOR'S WELFARE REFORM ADVISORY COUNCIL

WHEREAS, the current welfare system fails to foster fundamental values relating to work, family, personal responsibility, and self-sufficiency; and

WHEREAS, the current welfare system isolates recipients from the economic and social mainstream and maintains families at below-poverty levels with only limited support or incentives for recipients to become independent of welfare assistance; and

WHEREAS, welfare caseloads continue to grow in spite of Idahoans enjoying a robust economy; and

WHEREAS, the current welfare system can encourage continuing dependence from one generation of recipients to the next; and

WHEREAS, families headed by single women and births to unmarried teen parents continue to increase; and

WHEREAS, the current welfare system focuses on writing checks and verifying circumstances rather than helping people move rapidly to work;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of Idaho, do hereby establish the Governor's Welfare Reform Advisory Council.

I. PURPOSE

A. The Governor's Welfare Reform Advisory Council will:

1. Examine and identify the circumstances that result in people living in poverty and needing welfare assistance;
2. Identify the aspects of the present welfare programs that help or hinder the ability of recipients to become independent from welfare assistance;
3. Explore alternatives to current welfare programs through an in-depth review of current theories of welfare and of the various welfare reform efforts nationally and in other states;
4. Develop a comprehensive welfare reform proposal for Idaho that will maximize each recipient's opportunity to achieve independence of the welfare system and minimize the time of reliance or dependency on welfare assistance; and
5. Ensure the welfare reform proposal reinforces the values of work, family, self-sufficiency, and responsibility.

B. In performing the duties listed above, the Advisory Council will:
1. Focus on Aid to Families with Dependent Children;
2. Solicit ideas and suggestions from a variety of sources, including recipients, providers, advocates, community leaders, staff involved in providing services, and the general public; and
3. Provide a formal package of final recommendations to the Governor as soon as possible but no later than one year from the date of this order, with preliminary findings and recommendations due prior to the 1996 session of the Idaho Legislature.

II. COMPOSITION

A. The Governor's Welfare Reform Advisory Council will be composed of no more than 15 members. Members will be appointed by the Governor and will serve at his pleasure.

B. The Department of Health and Welfare will provide staff and administrative support to the Council. Duties of the Department will include:
1. Education of the Council members about the current welfare system;
2. Providing data regarding other states' welfare reform efforts;
3. Providing logistical coordination, record-keeping, and other project-related functions; and
4. Preparing any legislative proposals, budget submissions, federal waivers, or follow-up reports as may be required to complete the Advisory Council's work.

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 Capitol in Boise on this the fourteenth

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

EXECUTIVE ORDER NO. 95-06

CONTINUING THE GOVERNOR'S COUNCIL ON ADOLESCENT PREGNANCY PREVENTION, REPEALING AND REPLACING EXECUTIVE ORDER NO. 94-04

WHEREAS, the percentage of adolescents giving birth remains alarmingly high in Idaho; and

WHEREAS, the incidence of inadequate prenatal care, out-of-wedlock babies, low-birthweight babies, and infant deaths is significantly higher for adolescent mothers; and

WHEREAS, in 1993 approximately 2,811 Idaho females ages 10 to 19 years old became pregnant, resulting in a rate of 54 Idaho adolescents becoming pregnant each week; and

WHEREAS, 28 percent of Idaho's adolescent pregnancies are repeat pregnancies; and

WHEREAS, adolescent childbearing causes delays in school completion or alters the young mother's aspirations for home, school, or career; and

WHEREAS, it is in the best interest of all Idahoans to prevent unintended adolescent pregnancies; and

WHEREAS, the most effective response to the problems of adolescent pregnancy is to prevent adolescents from becoming sexually active;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me by law, do hereby continue the Governor's Council on Adolescent Pregnancy Prevention.

The duties of the Council shall include:

1. Development and implementation of a statewide campaign focused on delaying sexual activity by adolescents, and
2. Assessing the impact of the campaign on reducing the rate of adolescent pregnancy and reporting the results annually.

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 representing:

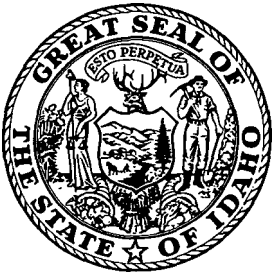
- public health/welfare
- education
- clergy
- private business
- parents

- adolescents
- local elected officials
- health care providers
- media

The Department of Health and Welfare will provide administrative support to the Council.

This Order repeals and replaces Executive Order No. 94-04.

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 Capitol in Boise on this the 11th day of May, 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. 95-07

AUTHORIZING THE CONTINUATION OF THE IDAHO RURAL DEVELOPMENT COUNCIL REPEALING AND REPLACING EXECUTIVE ORDER NO. 91-3

WHEREAS, Idaho is among the most rural states in the nation; and

WHEREAS, Idaho's tremendous geography and sparse population create problems of distance and isolation; and

WHEREAS, the most rural counties in Idaho consistently have lower per capita incomes, higher unemployment rates, lower rates of in-migration, higher poverty levels, and less new construction and job growth; and

WHEREAS, the most rural residents of Idaho have less access to health care services, employment training, business assistance, library service, and diverse educational and cultural opportunities; and

WHEREAS, the most rural communities have disproportionately large infrastructure needs for transportation, utility services, and education; and

WHEREAS, the multitude of public and private organizations with an interest in helping rural Idaho need a mechanism for coordination and collaboration; and

WHEREAS, three state goals are to provide universal access to basic services, to create economic opportunities so that citizens can live in rural Idaho if they so choose, and to increase the efficiency of service delivery by all units of government;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me by law, do hereby authorize the continuation of the Idaho Rural Development Council.

The Rural Development Council's responsibilities will be:

1. To identify organizations, authorities, and resources to address various aspects of rural development;
2. To serve as a clearinghouse of information and as a referral center on rural problems, programs, and policies;
3. To serve as a nonpartisan forum for identifying and understanding rural issues from all perspectives;
4. To assess conditions in rural Idaho and to set overarching goals and specific objectives for improving the quality of life in rural Idaho;
5. To identify collaborative strategies toward meeting these goals and to facilitate the implementation of these strategies by the Council member organizations;
6. To develop better intergovernmental and private/public coordination and to seek out opportunities for new partnerships to achieve rural development goals within the existing structure;
7. To identify and seek solutions to unnecessary impediments to rural development, first within Idaho and then through the National Rural Development Partnership; and
8. To work cooperatively with the National Rural Development Partnership and other state rural development councils.

The Idaho Rural Development Council is a joint effort between local, tribal, state, and federal governments, as well as the profit and not-for-profit private sectors. Its purpose is to foster coordinated approaches to rural development that support local initiatives, not to usurp the individual missions of any of its member organizations or duplicate effort.

Membership shall include representation from the following state entities:

1. Executive Office of the Governor
2. Idaho Legislature (4)
3. Department of Commerce
4. Department of Agriculture
5. Department of Employment
6. Department of Health and Welfare
7. Division of Environmental Quality
8. Department of Parks and Recreation
9. Idaho Transportation Department
10. Department of Lands
11. Department of Water Resources
12. Division of Vocational Education
13. Commission on the Arts
14. Small Business Development Centers
15. State Library
16. Public Utilities Commission

A representative of each of the five tribal governments of Idaho shall be invited to participate:

1. Kootenai Tribe
2. Coeur d'Alene Tribe

3. Nez Perce Tribe
4. Shoshone-Paiute Tribes
5. Shoshone-Bannock Tribes

A representative from each of the following local government organizations shall be invited to participate:

1. Association of Idaho Cities
2. Idaho Association of Counties
3. Regional planning or economic development districts
4. Resource Conservation and Development Districts (RC&Ds)
5. Health Districts

Representatives from private and not-for-profit organizations with an interest in the well-being of rural Idaho, including but not limited to the following organizations, shall be invited to participate:

1. Private and cooperative utilities
2. Banks and financial institutions
3. Health care providers
4. Idaho Rural Health Education Center
5. Idaho Migrant Council
6. Agricultural and industry organizations
7. Environmental organizations

Representatives and members of the following federal entities shall be invited to join the Council and participate:

1. Senators (2)
2. Congressmen (2)
3. USDA Rural Economic and Community Development (RECD)
4. USDA Natural Resources Conservation Service
5. USDA Consolidated Farm Services Agency
6. Idaho Cooperative Extension System
7. USDA Forest Service
8. Bureau of Land Management
9. Bureau of Reclamation
10. Small Business Administration
11. Economic Development Administration
12. Department of Housing and Urban Development
13. Veterans Affairs
14. Department of Energy

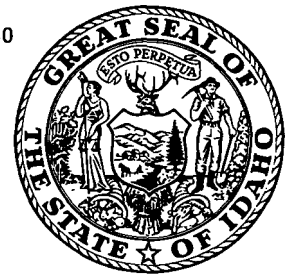
Additional Members may be added by consensus of the Council.

The Council shall meet no less than quarterly. The Council shall elect officers and a Board of Directors representing federal, state, local, and tribal governments and the private sector. This Board shall set operating policies and manage the Council budget and staff. The Council shall submit a report of its activities to the Governor and the Legislature annually.

This Executive Order repeals and replaces Executive Order No. 91-3.

This Executive Order shall expire on January 29, 1997, unless renewed prior to that date.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this the thirty-first day of May, in the year of our Lord nine-



teen 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. 95-08

IDAHO CODE OF FAIR EMPLOYMENT PRACTICES, REPEALING AND REPLACING EXECUTIVE ORDERS NO. 91-7 AND NO. 93-06

WHEREAS, the United States through its Constitution, laws, executive orders, and regulations has declared that all persons are to be treated fairly and equally; and the State of Idaho is committed to fulfilling that federal mandate; and

WHEREAS, the Legislature of the State of Idaho by Title 44, Chapter 17, and Title 67, Chapter 59, of the Idaho Code has declared that employment discrimination based upon race, color, national origin, religion, disability, sex, or age is illegal; by Title 56, Chapter 7, that the disabled shall be free from employment discrimination in public service; and by Title 65, Chapter 5, that veterans are to be given preference by public employers; and

WHEREAS, every Idahoan should be provided the opportunity to fully develop and use his/her talents. When we allow race, color, religion, national origin, sex, age, and/or disability to prevent anyone from reaching full potential, we fail that person, our state, and our country. In accordance with the principles of fair employment practices, we must strive to recognize and advance the abilities and talents of all people, while denying no individual his/her rightful opportunities; and

WHEREAS, we must assume our citizen-granted role of leadership in the protection of freedom for all citizens; and we must serve in that leadership role as a model for government, business, industry, labor, and education in this regard;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, in that spirit and to that purpose, do hereby proclaim the following Idaho Code of Fair Employment Practices shall continue to be the governing policy throughout every department of the Executive Branch of Government of the State of Idaho.

ARTICLE I--Employment Policies of State Agencies

State employees shall be recruited, appointed, assigned, and promoted upon the basis of individual merit, in accordance with the principles of fair treatment and non-discrimination on the basis of race, color, sex, religion, national origin, age, or disability. Appropriate consideration shall be given to veterans in accordance with applicable state and federal laws and regulations.

All state departments, commissions, and boards are directed to review present personnel recruitment, appointment, promotion, demotion, transfer, retention, discipline, separation, training, compensation policies, and other employment practices to assure compliance with this Executive Order. They shall regularly review present state and federal laws and regulations and seek to redress underutilization, if any, of minority, women, or disabled persons within the state workforce.

The State Personnel Commission shall take positive steps to insure that the entire examination process-- oral, written, and ratings-- shall be free from either conscious or inadvertent bias. State agencies shall give wide distribution of notice of employment opportunities so that all citizens may be fully advised of career opportunities in state government. Employment announcements issued by state agencies shall include a statement indicating, "Hiring is done without regard to race, color, religion, national origin, sex, age, or disability. Appropriate consideration shall be given to veterans in accordance with applicable state and federal laws and regulations."

ARTICLE II--State Action

All services of every state agency shall be performed without discrimination based on race, color, religion, national origin, sex, or disability. No state facility shall be used in furtherance of any discriminatory practice nor shall any state agency become a party to any agreement, arrangement, plan, contract, or subcontract which has the effect of sanctioning such practices.

ARTICLE III--State Financial Assistance

Race, color, religion, national origin, sex, or disability shall not be considered in state-administered programs involving the distribution of funds to qualified recipients for benefits authorized by law; and state agencies shall not provide grants, loans, or other financial assistance to public agencies, private institutions, or organizations which engage in discriminatory practices.

ARTICLE IV--State Employment Services

All state agencies, including educational institutions, which provide employment referral or placement services to public or private employers, shall accept job orders and/or applications on a nondiscriminatory basis. They shall refuse to fill any job order designed, either consciously or inadvertently, to exclude any person from employment because of race, color, religion, national origin, sex, age, or disability.

ARTICLE V--State Education, Counseling, and Training Program

All educational counseling and vocational guidance programs, employment and training programs, policy declarations and staff services of state agencies or those in which state agencies participate, shall be open to all qualified persons, without regard to race, color, religion, national origin, sex, age, or disability.

ARTICLE VI--Cooperation with Human Rights Commission

All state departments shall cooperate fully with the Idaho Human Rights Commission if state employees or applicants for state employment file complaints with the Commission. They shall also utilize the services of the Commission when needing technical advice regarding compliance with equal employment opportunity as described by Title 67, Chapter 59, Idaho Code. The Commission shall act as a referral agency for information or complaints concerning discrimination in certain protected classes not covered by Title 67, Chapter 59, Idaho Code.

ARTICLE VII--Enforcement by Appointing Authorities

The executive head of each state executive department shall be responsible for carrying out the policies of this Idaho Code of Fair Employment Practices and shall inform and educate all supervisory personnel regarding its intent and spirit. They shall promulgate clearly written directions to carry out this policy. Upon a showing of substantial evidence to the appropriate appointing authority that any officer or employee of the state has knowingly violated any of the provisions of this Executive Order or any applicable state or federal law or regulation, the appointing authority shall take appropriate disciplinary action.

Because of its sensitive nature, sexual harassment often cannot be effectively addressed through normal grievance procedures. Therefore, every appointing authority shall be responsible for the development of a grievance procedure to be used by employees and/or recipients of state services who believe they have been subjected to sexual harassment. This policy shall include at least the following: (1) a statement defining and forbidding sexual harassment, (2) an investigative procedure designed to protect the confidentiality of participants and to effect an immediate and fair resolution of the allegation, and (3) a statement advising employees and service recipients of their rights to raise this issue with appropriate governmental agencies and/or the courts. Pursuant to Article IV of this Executive Order, the Human Rights Commission and the Personnel Commission shall assist in the development of these policies.

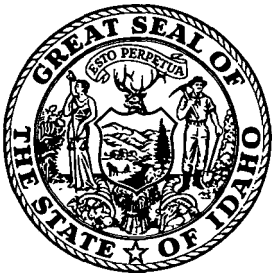
ARTICLE VIII--Affirmative Action Plans

The Governor will appoint an interagency committee to review state Equal Employment and Affirmative Action planning. The Committee will consult with appointing authorities and report to the Governor its recommendations for further improvements in the State's EEO/AA efforts. The committee's recommendations will be presented to the Governor by November 1, 1995.

This Executive Order repeals and replaces Executive Orders No. 91-7 and No. 93-06.

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 Capitol in Boise on this the twenty-



second day of May, 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. 95-09

DESIGNATING THE IDAHO DEPARTMENT OF JUVENILE CORRECTIONS AS THE SOLE STATE AGENCY RESPONSIBLE FOR SUPERVISING THE PREPARATION AND ADMINISTRATION OF IDAHO'S PLAN UNDER THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT; TRANSFERRING THE IDAHO JUVENILE JUSTICE COMMISSION FROM THE OFFICE OF THE GOVERNOR TO THE IDAHO DEPARTMENT OF JUVENILE CORRECTIONS; AND REPEALING AND REPLACING EXECUTIVE ORDER NO. 92-10

WHEREAS, the State of Idaho, in accordance with the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415 ("JJDPA"), is required to designate a state agency to supervise and administer Idaho's plan under the JJDPA and to establish a state juvenile justice advisory group; and

WHEREAS, the first regular session of the 53rd Idaho Legislature established the Idaho Department of Juvenile Corrections ("Department") and amended existing law to create a juvenile corrections system based on principles of accountability, community protection, and competency development; and

WHEREAS, the purposes and intent of Idaho's Juvenile Corrections Act of 1995 and the JJDPA will be better served by transferring the Idaho Juvenile Justice Commission ("Commission") to the Department;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me by Article IV, Section 5, of the Idaho Constitution, and Section 67-802, Idaho Code, do hereby order that:

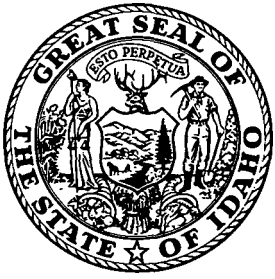
1. The Department is hereby designated as the sole agency for supervising the preparation and administration of Idaho's plan under the JJDPA, and the Office for Juvenile Justice and Delinquency Prevention is hereby abolished effective July 1, 1995.
2. The Commission is hereby transferred from the Office of the Governor to the Department effective July 1, 1995, and shall function as the advisory group referenced in Title 42, Section 5633(a)(3), United States Code.
3. The composition of membership of the Commission shall be in conformity with the JJDPA. The chairman, vice-chairman, and members of the Commission shall be appointed by, and serve at the pleasure of, the Governor. Members shall serve a term of

three years, and the chairman and vice-chairman shall serve in such capacities for one year.

4. The Commission shall perform the following functions:
   a. Advise the Department on juvenile justice and delinquency prevention issues;
   b. Participate in the development and review of Idaho's plan under the JJDPA;
   c. Be afforded an opportunity to review and comment on all grant applications under the JJDPA submitted to the Department;
   d. Perform such other duties that the JJDPA requires to be performed by the advisory group referenced in Title 42, Section 5633(a)(3), United States Code;
   e. Perform such other duties that the JJDPA requires to be performed by the supervisory board referenced in Title 42, Section 5671(c)(1), United States Code, and Title 28, Section 31.102(b), Code of Federal Regulations, until such time as the director of the Department may establish another committee, commission, or board within the Department to perform those duties; and
   f. Perform such other duties as requested by the director of the Department, which may include submitting reports to the director of the Department and making decisions on grant applications under the JJDPA submitted to the Department.

This Executive Order repeals and replaces Executive Order No. 92-10.

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this the thirtieth day of June, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 95-10

CONFIRMING THAT THE DISABILITY DETERMINATIONS SERVICE WILL CONTINUE ITS FUNCTIONS IN THE EXECUTIVE OFFICE OF THE GOVERNOR, REPEALING AND REPLACING EXECUTIVE ORDER NO. 91-12

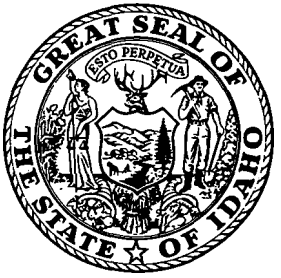
WHEREAS, a Disability Determinations Unit was established as a unit of 2tate government within the Executive Office of the Governor on April 12, 1979; and

WHEREAS, there continues to be a need for the important services provided by the Disability Determinations Service; and

WHEREAS, to be in compliance with the federal government's nomenclature, it is deemed appropriate to rename this office to be the Disability Determinations Service;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho, do hereby order that the Disability Determinations Service continue to function in the Executive Office of the Governor.

This Executive Order repeals and replaces Executive Order No. 91-12.



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 twentieth day of September, 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 sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 95-11

REDUCTION OF GENERAL FUND ALLOTMENTS

WHEREAS, Article 7, Section 11, of the Idaho Constitution provides that state government expenditures shall not exceed state government revenue; and

WHEREAS, I have determined that expenditures from the General Fund authorized by the Legislature for the current fiscal year will exceed anticipated state revenue for the fiscal year;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me pursuant to Section 67-3512A, Idaho Code, do hereby order:

1. That the General Fund spending authority on file in the Office of the State Controller be reduced for all depart-

ments, offices and institutions of the state by two percent (2%) of their Fiscal Year 1996 General Fund Appropriation with the exception of the offices of the elected State Constitutional officers, and the judicial and legislative departments.

2. Each department, office and institution shall give priority to deleting authorized positions and related costs with the balance of the reduction to come from ongoing operating expenses. Each department, office and institution shall notify the Office of the State Controller and the Division of Financial Management of the Office of the Governor of budget changes within ten days of the date of this order to reflect their new spending authority.
3. Elected State Constitutional officials and officers of the legislative and judicial branches of government are requested to reduce General Fund expenditures for Fiscal Year 1996 to reflect the realities of the projected revenue shortfall without impairing the discharge of their constitutional duties.
4. Each department, office and institution funded by dedicated accounts or interagency billings is also requested to reduce their Fiscal Year 1996 expenditures to reflect the General Fund reductions.

This order shall take effect immediately upon its execution and shall continue in effect until January 31, 1996 unless revoked or modified by the Governor, or until the Legislature or the Board of Examiners takes further action.

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 6th day of September, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 95-12

ESTABLISHMENT OF THE CRIMINAL JUSTICE RECORDS IMPROVEMENT ADVISORY COUNCIL REPEALING AND REPLACING EXECUTIVE ORDER NO. 93-04

WHEREAS, automated criminal histories are relied upon at virtually every stage of the criminal justice system and play a vital role in almost every decision in the process; and

WHEREAS, under legislative directive, the use of criminal histories for noncriminal justice purposes -- such as background screening for public and private employment and occupational licensing -- is expanding; and

WHEREAS, national studies have found that the accuracy and completeness of criminal justice records are seriously deficient, thereby compromising the usefulness of these important records; and

WHEREAS, concern about the quality of criminal justice records has led the U.S. Congress and state governments to initiate programs to improve data quality; and

WHEREAS, the Federal Crime Control Act of 1990 requires states to allocate five percent of their total law enforcement assistance formula grant award for the improvement of criminal justice records, and federal guidelines for use of the set-aside grant funds call for the states to establish and interagency advisory council to assist in meeting certain data quality goals; and

WHEREAS, the continued assistance of an advisory council representing the broad spectrum of the criminal justice community is crucial to the success of the Idaho's records improvement project;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me by law, do hereby establish the Criminal Justice Records Improvement Advisory Council and charge it with the responsibility of promoting interagency and intergovernmental cooperation involving efforts to improve the quality of Idaho's criminal justice records.

The Advisory Council shall have the following duties:

1. Assisting the effort to ascertain the reasons for incomplete and inaccurate records;
2. Recommending remedial actions for correcting deficiencies in the accuracy, completeness, and timeliness of criminal justice records;
3. Evaluating the criminal justice records improvement plan prepared for submission to the U.S. Department of Justice;
4. Reviewing the implementation of the criminal justice records improvement plan;
5. Reviewing plans or initiatives to link information systems operated by criminal justice agencies;
6. Recommending initiatives for achieving the goals of an approved records improvement plan and form meeting the varied needs of the criminal justice community regarding automated criminal histories;
7. Evaluating the adequacy of state laws and other reporting requirements relating to criminal justice records and assisting in the formulation of needed statutory revision.

The Advisory Council shall consist of the following twelve (12) members, who shall be appointed by and serve at the pleasure of the Governor:

Attorney General of the State of Idaho
A Member of the Idaho Senate
A Member of the Idaho House of Representatives
Two (2) County Sheriffs

Two (2) Municipal Chiefs of Police
A Prosecuting Attorney
Director, Idaho Department of Correction
Director, Idaho Department of Juvenile Corrections
Director, Idaho Department of Law Enforcement
A Noncriminal Justice User

The Advisory Council shall select a chairman and vice-chairman from among its members. The advisory council may appoint advisory committees to assist it in developing solutions to problems adversely affecting the quality of criminal justice records. A council member may designate a proxy to represent the member at council meetings.

The Department of Law Enforcement shall have the responsibility of insuring that the criminal justice records improvement project satisfies federal requirements and achieves the goals of the State's records improvement plan. To accomplish this responsibility, the Department of Law Enforcement shall undertake the following duties:

1. Preparing the criminal justice records improvement plan for submission to the U.S. Department of Justice;
2. Administering a criminal justice records improvement project that is based on a federally-approved records improvement plan and funded by five percent of the State's law enforcement assistance formula grant award;
3. Seeking the guidance of the Criminal Justice Records Improvement Advisory Council and supporting it through:
   a. scheduling the meetings of the council,
   b. briefing the council on the records improvement project, and
   c. providing the council with needed administrative and clerical assistance;

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 Capitol in Boise on this the second day of October, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 95-13

CONTINUING STATE OF IDAHO COMPREHENSIVE SAFETY AND LOSS CONTROL POLICY REPEALING AND REPLACING EXECUTIVE ORDER NO. 93-09

WHEREAS, it is in the best interest of state employees, the general public and efficient operation of state government to have a commitment to safety and loss control; and

WHEREAS, the State of Idaho endeavors to provide a safe and healthy working environment for state employees and to protect the public and public property from injury or damage; and

WHEREAS, an effective Safety and Loss Control Policy provides additional benefits of improved productivity, employee confidence, lower insurance costs and improved worker morale; and

WHEREAS, an effective Safety and Loss Control Policy requires full management commitment, cooperation and leadership at all levels of state government;

NOW, THEREFORE, I, 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. Each Department Director or other appointing authority will continue to develop, maintain, and monitor a systematic program of safety and loss control for each agency that will minimize the risk of injury or damage to: (a) the public employee, (b) the general public, (c) state property, (d) the ability of the agency to fulfill its mission and (e) the environment. The continued development, maintenance, and monitoring of a systematic program of safety and loss control should be a priority objective for each agency.
2. Each Department Director or other appointing authority will continue to ensure that, where applicable, potential new state employees are appropriately screened, that new employees are systematically and fully trained for all equipment that they are expected to operate, that safe work practices are followed by all employees on the job, that all equipment used is properly maintained and used for its intended purpose, that proper personal protective equipment is worn when needed and that safety practices are a criterion in employee and supervisor performance evaluations in those positions where such is applicable.
3. Each Department Director or other appointing authority will continue to assume responsibility for reviewing loss reports and accidents involving bodily injury, or property or environmental damage, and to take corrective action to avoid future loss. Where appropriate, assistance from the agencies listed below should be requested to develop and implement appropriate corrective or preventive measures. Each Department Director or other appointing authority may delegate the authority to perform these duties to a safety officer or committee but shall remain responsible for the performance of the agency's safety and loss control program.
4. All buildings owned or maintained by any state government agency or entity, or which are constructed or renovated spe-

cifically for use or occupancy by any such agency or entity shall conform to all existing state codes, including but not restricted to, the Idaho General Safety and Health Standards Code No. 1, the Uniform Building Code, the Uniform Mechanical Code and the Uniform Fire Code. If any conflict arises between applicable codes, the more stringent code shall take precedence. Prior to construction, or remodeling of such buildings, where appropriate, construction plans shall be reviewed and approved by the Department of Labor and Industrial Services and the Permanent Building Fund Advisory Council.

5. The following agencies shall continue to assist state agencies by offering the following services:
   a. Department of Labor and Industrial Services shall inspect public buildings and places of employment, and enforce safety and sanitary conditions and practices.
   b. The Office of the State Fire Marshal shall, through the local fire authorities, inspect public buildings and enforce fire and life safety provisions as contained within the Uniform Fire Code.
   c. The State Insurance Fund shall assist in developing employee safety programs, through consultation with staff agency personnel, and provide detailed reports to agencies on their losses insured through the State Insurance Fund.
   d. The Department of Administration, Bureau of Risk Management, shall, whenever needed or requested, assist agencies in developing their safety and loss control programs. The Department of Administration, Bureau of Risk Management, shall also assist agencies in obtaining other requested services in safety and/or loss control not mentioned above, including, but not limited to, general property and casualty loss control, and shall provide detailed reports to agencies on their losses insured through the Bureau of Risk Management.

6. A Statewide Safety and Loss Control Committee shall be comprised of the Director of the Department of Labor and Industrial Services, the Manager of the State Insurance Fund, the State Fire Marshal, the Director of the Department of Administration (who shall serve as Chairman of the Committee), or their designees, and other state agencies as deemed necessary. The purpose of the Committee shall be to:
   a. Adopt a Statewide Safety and Loss Control Program of a proactive nature with a system tracking the progress of the program;
   b. Develop strategies and standards to assist agencies with their safety programs;
   c. Review statewide trends in losses and exposures and make cost-effective recommendations;
   d. Coordinate the services available to maximize efficiency and reduce unnecessary duplication of inspections;
   e. On behalf of the Governor, review the safety and loss control programs of selected agencies and recommend

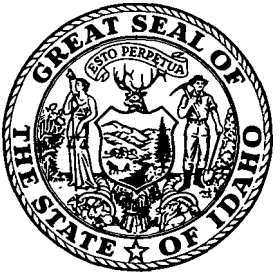
changes to improve the effectiveness of the programs;

f. Make recommendations to the Governor and Legislature on improving safety and loss control for state government;

g. Convene and meet on a quarterly basis, or more frequently if necessary, to plan, implement and review the Statewide Safety and Loss Control Program; and

h. Perform other related duties as may be requested by the Governor.

This Order repeals and replaces Executive Order No. 93-09.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this the twenty-eighth day of November, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 95-14

CONTINUATION OF THE MARTIN LUTHER KING, JR. TASK FORCE, REPEALING AND REPLACING EXECUTIVE ORDER NO. 91-17

WHEREAS, in 1983 Congress enacted legislation which established the third Monday of each January as a legal federal holiday in commemoration of Dr. Martin Luther King, Jr. and Idaho joined other states by establishing the third Monday in January as Martin Luther King, Jr.-Idaho Human Rights Day; and

WHEREAS, Congress, in conjunction with this Act, has created the Martin Luther King, Jr. Federal Holiday Commission to promote appropriate observances including those at the state level; and

WHEREAS, Idaho wishes to ensure that all persons have an opportunity to participate fully in honoring Dr. King on the third Monday in January; and

WHEREAS, the celebration of Dr. King's birthday is intended as a time for all Americans to reaffirm their commitment to the basic principles that underlie our Constitution--equality and justice for all;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me pursuant to Section 67-802, Idaho Code, do hereby order the continuation of the Governor's Task Force to plan Idaho's observance of the Martin Luther King, Jr.-Idaho Human Rights Day activities. The Task Force shall consist of a Chairperson and such persons as may be appointed by the Governor and who will serve at

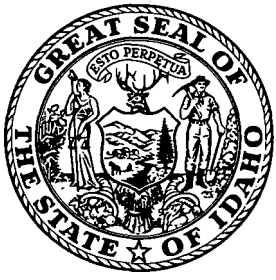
his pleasure.

The Task Force shall:

1. Review material supplied to the state by the Martin Luther King, Jr. Federal Holiday Commission; solicit ideas from Idahoans concerning appropriate activities; and make recommendations to the Governor for the state observances;
2. Present the Governor with a report on activities of the past year and recommendations on the upcoming celebration. Such reports are due on November 15 of each year;
3. Encourage participation in activities recommended by the Task Force and the Governor as part of Idaho's commemoration of Dr. King's birthday; and
4. Work with citizen and community groups from throughout the state in coordinating and assisting them to plan activities honoring Dr. King.

Members shall serve without compensation. The Task Force will be staffed by the Idaho Human Rights Commission.

This Executive Order repeals and replaces Executive Order 91-17.



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 seventh day of December, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 95-15

DEFERRED COMPENSATION PROGRAM FOR EMPLOYEES OF THE STATE OF IDAHO, REPEALING AND REPLACING EXECUTIVE ORDER NO. 91-18

WHEREAS, there is a continuing interest on the part of employees of the State of Idaho in a plan whereby employees may defer the receipt of portions of their earnings until retirement; and

WHEREAS, the Idaho Legislature by and through the implementation of section 59-513, Idaho Code, has provided for the establishment of a Deferred Compensation Program; and

WHEREAS, in response to this interest, the Board of Examiners of the State of Idaho has appointed a Deferred Compensation Committee to study implementation of such a plan; and

WHEREAS, a Deferred Compensation Program has been presented to and approved by the Board of Examiners of the State of Idaho by the

Deferred Compensation Committee; and

WHEREAS, administrative entities on the state level are necessary for proper implementation and maintenance of the plan;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, do hereby, by virtue of the authority vested in me by law, order the following:

1. The Deferred Compensation Committee comprised of a representative appointed by the Governor, a representative from the Office of the Attorney General, and a representative from the Office of the Secretary of State is hereby named as the policymaking board for the Deferred Compensation Program subject to the authority vested in the Board of Examiners of the State of Idaho by law.
2. The Deferred Compensation Committee shall make the following decisions concerning the implementation and maintenance of a Deferred Compensation Program subject to the approval of the Board of Examiners.
   a. Selection of a third-party administrator.
   b. Selection of product companies which sell or offer securities or other assets to the State of Idaho in accordance with the Deferred Compensation Program.
   c. Approval and monitoring of the marketing program to introduce and explain the Deferred Compensation Program to state employees.
   d. Review all summary reports produced by the Office of the State Controller and the third-party administrator to insure proper accounting for all funds.
   e. Review on a yearly basis the viability of all product companies associated with the Deferred Compensation Program and to determine if rebidding is necessary.
   f. Review all financial hardship cases and other unusual circumstances developing with employees enrolled in the Deferred Compensation Program.
   g. Review and approve all plan documents, contracts, bylaws, and rules and regulations.
   h. Review the performance of the third-party administrator.
   i. Review all audits of the Deferred Compensation Program.
3. A representative of the Department of Administration in accordance with the request of the Board of Examiners of the State of Idaho shall be responsible for all daily paperwork and contact with the third-party administrator and employees concerning routine matters. The Department of Administration is hereby required to provide the following routine administrative services:
   a. Insure that remittance to the product companies of deferred moneys is made from the periodic payroll.
   b. Review and sign all enrollments, change and claim requests.
   c. Keep or arrange to keep any necessary files concerning the Deferred Compensation Program.
   d. Communicate with state employees and the third-party administrator concerning routine matters.
   e. Provide or arrange to provide completion of any other

routine matters as requested by the Deferred Compensation Committee.

This Executive Order repeals and replaces Executive Order No. 91-18.

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 eighth day of December, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 95-16

CONTINUATION OF THE IDAHO LEWIS AND CLARK TRAIL COMMITTEE REPEALING AND REPLACING EXECUTIVE ORDER NO. 91-16

WHEREAS, the Lewis and Clark Trail has great historical significance to the State of Idaho; and

WHEREAS, it is important that Idaho have an official group to coordinate with other Lewis and Clark Trail states;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, do hereby continue the Idaho Lewis and Clark Trail Committee as an advisory body to state, local and federal governments on the Lewis and Clark Trail development and management.

The Committee shall:

1. Promote public awareness of the historical significance of the Lewis and Clark Expedition and encourage the development and protection of historical sites and outdoor recreational resources along the Lewis and Clark Trail;
2. Act in an advisory capacity to other Idaho commissions, bureaus, agencies and committees by making recommendations regarding their activities and policies that relate to the history and trail of the Lewis and Clark Expedition; and
3. Serve as the official liaison with other Lewis and Clark Trail states; the national Lewis and Clark Trail Heritage Foundation, Inc.; and federal departments, bureaus, and committees concerned with the Lewis and Clark Trail in coordinating and planning activities to foster state and national recognition of the significance of the Lewis and Clark Expedition, including promotion of the aims and recommendations of the federal Lewis and Clark Trail Commission, which

existed from 1964 to 1969.

The Committee shall consist of no more than 10 persons who are appointed by the Governor and serve at his pleasure. The membership of the Committee shall include the President of the Lewis and Clark Trail Heritage Foundation, a representative of the Idaho Historical Society, a representative of the Idaho Department of Parks and Recreation and the Governor or his designee.

The Committee shall have regular meetings as determined by the majority of the Committee and shall meet on special occasions upon the call of the Chairperson.

This Executive Order repeals and replaces Executive Order No. 91-16.

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 eighth day of December, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 96-01

ASSIGNMENTS OF ALL-HAZARD MITIGATION, PREPAREDNESS, RESPONSE AND RECOVERY FUNCTIONS TO STATE AGENCIES IN SUPPORT OF LOCAL AND STATE GOVERNMENT PRIOR TO AND DURING EMERGENCIES AND DISASTERS. REPEALING AND REPLACING EXECUTIVE ORDER NO. 91-19

WHEREAS, widespread disaster resulting from floods, fires, storms, earthquakes, hazardous materials, tornadoes, landslides, mudslides, drought, explosion, riot, hostile military actions, or other catastrophe is an ever present possibility in this State; and

WHEREAS, Chapter 10, Title 46, Idaho Code requires the protection of lives and property of the residents of the State in any type of natural or man-made disaster emergency or threat that might conceivably confront the state; and

WHEREAS, it is the duty of all state officials to assume active leadership in emergency management through mitigation, preparedness, response, and recovery operations; and

WHEREAS, the Legislature has directed the development of such state disaster mitigation, preparedness, response, and recovery plans; and

WHEREAS, effective state mitigation, preparedness, response, and

recovery planning requires the identification of functions that would be performed during such emergencies, the assignment of responsibility for performance of these functions, and the assignment of responsibility for developing the capability to implement these plans;

NOW, THEREFORE, I, Philip E. Batt, Governor of the State of Idaho, by virtue of the powers and authority vested in me by the Constitution and laws of this State, and in accordance with the provisions of Sections 46-601 and 46-1008, Idaho Code, do hereby assign emergency mitigation, preparedness, response, and recovery functions to the various agencies. Each department and agency with essential functions, whether expressly identified in this Order or not, shall:

I. COORDINATING INSTRUCTION

A. Office of the Adjutant General, Chief, Bureau of Disaster Services

1. Coordinate emergency management activities of all state agencies on behalf of the Governor. (Section 46-1006, Idaho Code).
2. Provide executive supervision and policy guidance to the state Director/Coordinator, Bureau of Disaster Services.
3. Order into active service of the state, the National Guard or any part thereof as directed by the Governor in the event a state of an extreme emergency is declared. (Section 46-601, Idaho Code).

B. State Director, Bureau of Disaster Services

1. Coordinate and integrate state all-hazard mitigation, preparedness, response and recovery efforts for all emergencies and disasters.
2. Coordinate response, recovery and mitigation operations of all state agencies during an emergency or disaster.
3. Establish and maintain an Emergency Operations Center for directing the coordination of emergency operations.
4. Develop and coordinate the preparation and implementation of plans and programs for emergency mitigation, preparedness, response and recovery which are consistent with national plans and programs. Ensure state agency plans are consistent with state emergency management goals and procedures.
5. Coordinate mutual support between the state government and federal agencies.
6. Coordinate all requests from state and local governments for disaster emergency assistance.
7. Coordinate the use of communications and warning systems in the state Emergency Communications Center.

II. GENERAL ASSIGNMENTS

Each state agency will:

A. Recognize that the actual delivery of emergency services in Idaho is accomplished by local governments, and that 85% of these emergency services are delivered by community volunteers, including fire, ambulance, rescue, planning and training.

B. Recognize that the role of state government should be to support and enhance local community emergency response efforts, including focusing state agency activities on supporting

regional and community needs throughout Idaho.

C. Recognize that the State Emergency Response Commission (SERC), created by Idaho code, Section 39-7104, shall be expanded until such time as the Idaho code may be changed, to include ex-officio members from the following agencies to provide input and coordination on a temporary and informal basis regarding the following indicated hazards: Department of Lands, re: wild land fires; the Idaho Geological Survey, re: earthquakes and geophysical data; the Department of Water Resources, re: floods; and INEL Oversight Program, re: radiological hazards. (The SERC shall explore the permanent expansion of their membership and statutory duties through proposed legislative changes to enable advising on all possible emergency hazards in Idaho and shall provide their recommendation and draft legislation to the office of the Governor.)

D. Continue the regular, open dialogues between local emergency service providers and state support agencies, begun with the Workgroup, under the sponsorship of the expanded Idaho Emergency Response Commission.

E. Develop and maintain disaster emergency operations plans to carry out the agency's response and recovery support functions. Agency plans will assign disaster emergency duties to all subdivisions and personnel. Plans will be kept current and a copy placed on file in the office of the Bureau of Disaster Services.

F. Develop and maintain business resumption plans. In addition to other considerations, the state agency plans will incorporate evacuation and accountability of personnel. A copy of the business resumption plan will be placed on file with the Bureau of Disaster Services.

G. Appoint an emergency management coordinator(s) and furnish that name(s) to the Bureau of Disaster Services. Each agency will ensure emergency management activities are coordinated throughout their agency and its subdivisions in order to support the State Emergency Plan and Federal Response Plan.

H. Ensure that all state agency data processing plans define their agency's data backup and recovery policies and are submitted annually to the Division of Information Technology.

I. Provide notification to the Bureau of Disaster Services of any significant incident, emergency, or disaster, impacting any level of government within the State of Idaho, when an agency becomes aware of such an event. The Bureau of Disaster Services will notify the Governor's Office through the Adjutant General, Chief, Bureau of Disaster Services.

J. Report to the State Emergency Operations Center when activated by the Bureau of Disaster Services. Activation of the state Emergency Operations Center may require both agency directors and emergency coordinators.

K. Provide coordination assistance and support during disaster and emergency operations as required by the Idaho Emergency Operations Plan and the Federal Response Plan. Agency support will include making resources and facilities available

for essential emergency use.

L. Grant and/or use waivers in accordance with the applicable provisions of the Idaho Code for necessary disaster emergency response and recovery operations.

M. Provide full cooperation and support to those agencies that are assigned specific primary support roles in disaster mitigation, preparedness, response and recovery activities.

N. Provide agency incident reports to the Bureau of Disaster Services describing the agency's disaster emergency activities including the area of impact, impact on life and property, level of an agency's commitment, requests for assistance from local government, federal agencies participating in response or recovery, and resource shortfalls. Agency incident reports should be provided at least once every 24 hours in coordination with other Bureau of Disaster Services situation reporting requirements.

O. Record and provide expense reports to the Bureau of Disaster Services, including expenditures for mitigation, preparedness, response and recovery activities. Expenditures will include costs for staff time, travel, major supplies and equipment, location, purpose, and any other costs which are a direct result of emergency management activities.

P. Provide supporting data for federal assistance applications and other mitigation, preparedness, response and recovery activities when requested by the Bureau of Disaster Services.

Q. Provide public Information officer assistance to the Bureau of Disaster Services, when requested.

R. Provide public information officers for Bureau of Disaster Services public information officer training and exercises in preparation for disaster response and recovery operations.

S. Train divisional personnel to meet state emergency response and recovery objectives as coordinated by the Bureau of Disaster Services.

T. Coordinate all training in emergency services for state agency employees, agents, or volunteers with the State Board for Vocational Education. The State Board shall provide information on that training to all interested agencies to enable those other agencies to participate in that training; thereby benefiting from the cost savings of a consolidated and coordinated statewide training program for all state emergency service agencies.

U. Coordinate any agreement or memorandum of understanding that incorporates emergency or disaster mitigation, preparedness, response, and recovery functions with the Bureau of Disaster Services. Such agreements or understandings will be integrated as part of the State Emergency Plan.

III. SPECIFIC ASSIGNMENTS

A. OFFICE OF THE ATTORNEY GENERAL

1. Provide legal advice and assistance to all executive officers of state government and to all offices or agencies of the State upon any question of law relating to their respective functions.

2. Provide consumer protection advice and assistance in

response and recovery phases of a disaster.

B. DEPARTMENT OF ADMINISTRATION

1. Assist in the development and implementation of disaster emergency plans for use of all nonmilitary communications and warning systems within the State.
2. Assist other state and local agencies in procuring communications and warning equipment required to fulfill emergency responsibilities. Maintain an inventory and coordinate the availability of mobile and portable radios between state agencies.
3. Prepare communication and warning studies to improve emergency communications.
4. Promote and develop structural and non-structural mitigation actions for state owned or leased buildings and structures in association with the Departments of Education and Labor and Industrial Services.
5. Provide personnel for damage assessment and damage survey teams.
6. Provide state and local health authorities with assistance for emergency sanitation problems.
7. Assist in planning for emergency use of public lands, institutions and other buildings.
8. Supervise and coordinate the procurement of construction equipment and personnel as it pertains to essential facilities and housing, in conjunction with the Idaho Transportation Department.
9. Provide administrative and logistical support services.
10. Provide state and local governments with emergency contractual assistance and guidance.
11. Provide for the expanded security of the Capitol Mall Complex and state-owned or leased facilities, when required.
12. Coordinate with all state agencies to provide administrative support to the Bureau of Disaster Services when the state EOC is activated. Administrative personnel may be required to work 12-hour shifts to support disaster emergency response and recovery operations.

C. DEPARTMENT OF AGRICULTURE

1. Act as the primary support agency for mitigation, preparedness, response and recovery activities as they pertain to agricultural issues.
2. Act as the primary support agency for securing information concerning agricultural issues during disaster emergencies.
3. Coordinate with local officials for the evacuation of domestic livestock and other animals, and the establishment of an evacuation reception area for appropriate animal care.
4. Coordinate feeding requirements and care arrangements for livestock and other animals evacuated, lost, or abandoned as a result of disaster.
5. Coordinate dead animal removal.
6. Assist with incident response and recovery activities

when pesticides are involved.

7. Provide technical assistance concerning livestock health, disease control and preventive medicine.
8. Distribute medical supplies for livestock and other animals.
9. Inspect feed to ensure it is safe for livestock consumption.
10. Provide toxicological and other technical data on pesticides, fertilizers, plant and soil amendments and other chemicals to response personnel and the public.
11. Assist with the disposal of unusable pesticides, fertilizers and plant or soil amendments and help coordinate the transportation of these materials.

D. STATE CONTROLLER

1. Initiate the warrant payment process in order to fulfill fiscal obligations resulting from goods and services supplied by state agencies during emergency response and recovery operations.
2. Fulfill fiscal obligations to the extent possible that monies exist in the state treasury.

E. DEPARTMENT OF COMMERCE

1. Act as the primary support agency for mitigation, preparedness, response and recovery activities related to economic injury/losses as a result of disasters.
2. Provide an economic impact analysis of the effects of disasters or emergencies when requested by the Bureau of Disaster Services or other state agencies.
3. Provide assistance to local government as coordinated by the Bureau of Disaster Services.

F. DEPARTMENT OF CORRECTIONS

1. Provide personnel for emergency response and recovery assistance.

G. STATE BOARD OF EDUCATION

1. State Department of Education
   a) Coordinate the development of emergency disaster plans for all local school district buildings to ensure the safety of school populations in time of emergency.
   b) Assist local school districts and other qualifying agencies to develop a policy for the use of buses in an emergency.
   c) Promote mitigation activities to reduce the risk from structural and nonstructural hazards in school facilities.
   d) Assist in coordinating activities for damage assessments and damage surveys for school facilities.
   e) Provide personnel to assist with damage assessment of public school facilities.
   f) Coordinate the utilization of school facilities for reception, shelter, mass feeding and disaster application centers during natural or man-made disasters.

2. The Office of the State Board of Education
   a) Coordinate the development of emergency disaster plans for colleges, universities and area vocational-technical facilities to ensure the safety of school populations in time of emergency.
   b) Promote mitigation activities to reduce the risk from structural and nonstructural hazards in colleges, universities and area vocational-technical facilities.
   c) Assist in coordinating activities for damage assessments and damage surveys for higher educational and area vocational-technical facilities.
   d) Provide personnel to assist with damage assessment of colleges, universities and area vocational-technical facilities.
   e) Coordinate the utilization of colleges, universities and area vocational-technical facilities for reception, shelter, mass feeding and disaster application centers during natural or man-made disasters.

H. DEPARTMENT OF EMPLOYMENT
1. Provide unemployment insurance claims service for disaster victims in the disaster application centers.
2. Provide re-employment assistance to unemployed individuals affected by a disaster emergency.

I. DEPARTMENT OF FISH AND GAME
1. Provide personnel to be used as auxiliary police during emergencies.
2. Assist in search and rescue operations.
3. Assess environmental impact of proposed emergency operations and suggest alternative methods or actions to minimize environmental damage.
4. Provide personnel for damage assessment and damage survey teams.
5. Provide emergency communications.

J. DEPARTMENT OF HEALTH AND WELFARE
1. Coordinate emergency medical and health services throughout the state. Such responsibilities include development of general plans for public health and sanitation; emergency medical assistance; identification and mortuary services; mass care and feeding management; crisis counseling; emergency social services; evacuation of sick and injured; and use of hospitals and other medical facilities.
2. Assess adequate supplies of potable water and coordinate with other appropriate state agencies.
3. Support implementation of the state's Individual Family Grant program during a presidentially-declared disaster.
4. Provide damage assessment and survey team personnel for health and welfare-related functional activities.
5. Assess environmental impact of proposed emergency operations and suggest alternative methods or actions to minimize environmental damage.

6. Provide emergency communications support, as coordinated by the Bureau of Disaster Services.
7. Provide food stamp and disaster welfare services.
8. Provide staff personnel to work in Disaster Application Centers.
9. Develop a plan for use of personnel and equipment on a regional basis.
10. Monitor the National Warning System (NAWAS) until relieved by the Bureau of Disaster Services.

K. DEPARTMENT OF INSURANCE
1. Provide insurance counseling services for disaster victims.
2. Prepare required insurance certifications for federal disaster assistance.
3. Develop, coordinate and maintain a statewide Fire Service and Rescue Emergency Mutual-Aid Plan. Provide a copy of the Fire Service and Rescue Emergency Mutual-Aid Plan to the Bureau of Disaster Services.

L. DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES
1. Provide personnel for damage assessment and damage survey teams.
2. Promote and develop mitigation activities in conjunction with the Departments of Administration and Education.

M. DEPARTMENT OF LANDS
1. Develop and direct the state's mitigation, preparedness, response and recovery activities for State lands.
2. Cooperate with federal and local governments in developing plans for and directing activities relating to the prevention and control of wildland fires.
3. Develop plans and direct activities for the emergency protection, management and utilization of land resources, and facilities under the state's jurisdiction.
4. Provide emergency communications assistance.

N. DEPARTMENT OF LAW ENFORCEMENT
1. Develop and direct mitigation, preparedness and response programs for civil disorder and terrorism.
2. Provide for the safety and protection of personnel including evacuation, warning, scene protection, traffic controls, etcetera.
3. Coordinate all requests for additional state law enforcement.
4. Coordinate with the Bureau of Disaster Services for response and recovery disaster operations in a crime scene.
5. Operate a statewide emergency communication system which will be designated as the primary system during an emergency.
6. Alert state agencies and local governments of impending threats.
7. Enforce statewide emergency traffic controls and evacuation plans.
8. Provide damage assessment and information on disaster

incidents to the Bureau of Disaster Services.

9. Provide brand inspection personnel to determine ownership of animals.
10. Assist in search and rescue operations.
11. Develop a plan for use of personnel and equipment on a regional basis.
12. Provide for mobile radiological monitoring as directed and coordinated by the Bureau of Disaster Services.
13. Develop, coordinate, and maintain a statewide Law Enforcement and Search and Rescue Mutual-Aid Plan. Provide a copy of the Law Enforcement and Search and Rescue Mutual-Aid Plan to the Bureau of Disaster Services.

O. DEPARTMENT OF PARKS AND RECREATION

1. Provide lands and facilities as mass care and feeding centers during emergencies and disasters.
2. Provide trained personnel for damage assessment and damage survey teams.

P. DEPARTMENT OF REVENUE AND TAXATION

1. Provide tax counseling services for disaster victims as coordinated by the Bureau of Disaster Services.

Q. TRANSPORTATION DEPARTMENT

1. Provide engineering support to the Bureau of Disaster Services for emergency planning and mitigation including: storms, avalanches, landslides, mudslides and volcanic eruptions.
2. Develop a plan for use of personnel and equipment on a regional basis.
3. Provide debris removal services as coordinated by the Bureau of Disaster Services.
4. Provide engineering services, repair and maintenance of state highways, bridges and airfields and resources for debris clearance.
5. Develop and implement emergency highway traffic regulations.
6. Coordinate aviation activities within the state, to include the requirement for restricted air space within the disaster area.
7. Provide aviation resources for evacuation, search and rescue operations, and aerial radiological monitoring as coordinated by the Bureau of Disaster Services.
8. Operate a statewide emergency communications system which will be designated as an alternate emergency communications system during an emergency.
9. Activate "Plan Bulldozer" when requested by the Bureau of Disaster Services.
10. Provide specialized heavy construction and transport equipment with operators as coordinated by the Bureau of Disaster Services.

R. DEPARTMENT OF WATER RESOURCES

1. Develop mitigation, preparedness and response programs for flood, drought, and energy shortages in concert with the Bureau of Disaster Services.
2. Conduct dam safety inspections and supervise dam safety

practices during times of flooding or imminent failure.

3. Advise the Bureau of Disaster Services of impending emergency conditions such as imminent failure or other conditions involving dam safety.
4. Coordinate operation of water structures to minimize flood damage, allow emergency maintenance and repairs to protect life and property during impending or actual occurrence of a disaster.
5. Establish procedures to grant stream channel protection waivers to entities involved in emergency flood fight situations and when channel work is necessary on an emergency basis to protect life and property.
6. Assist agencies and individuals in obtaining emergency authorization from the Corps of Engineers, U.S. Army, under Public Law 92-500, to conduct flood control activities in waterways.
7. Provide trained personnel to coordinate emergency activities with state and local officials before, during, and after flood emergencies.
8. Provide personnel for damage assessment and damage survey teams.
9. Provide assistance in finding and obtaining alternative water supplies during drought emergencies.
10. Assist the Department of Health and Welfare in assuring adequate supplies of potable water.
11. Provide emergency communications, as coordinated by the Bureau of Disaster Services.

S. PUBLIC UTILITIES COMMISSION

1. Assist with energy shortages mitigation, preparedness, response and recovery.

T. DIVISION OF FINANCIAL MANAGEMENT

1. Coordinate and develop a fiscal impact analysis of the effects of a disaster emergency upon request by the Bureau of Disaster Services.

U. IDAHO GEOLOGICAL SURVEY

1. Formulate and direct the State's geologic hazard reduction effort by providing hazard identification, analysis, and mapping of the geologic threats.
2. Provide a geologic representative(s) for damage assessment, damage survey, and hazard mitigation teams which involve geologic hazards.

V. MILITARY DIVISION

1. National Guard:
   a) Provide military support to civil authorities on the employment of military forces during a disaster emergency in accordance with federal and state laws and regulations.
   b) Provide specific guidance as required for emergency preparedness planning and programming for state military forces.
   c) Establish a statewide military emergency communications system. During emergencies, maintain communications between the state Emergency Operations

Center and State Military Headquarters. Develop a capability for utilization of radio communications between the state military forces, state Highway Districts, and civil law enforcement agencies. Provide a mobile communications center for joint military/civil use as required at the scene of operations during emergencies.

d) Provide logistical assistance to state damage assessment and damage survey teams, as well as Disaster Field Office operations.

2. Bureau of Disaster Services:

a) Assist local governments with the development of all-hazard mitigation, preparedness, response, and recovery plans, training and exercises.

b) Administer federal programs of disaster emergency planning and assistance pertinent to state and local governments.

c) Provide training and exercising of the State Emergency Plan and Federal Response Plan.

d) Provide training for state agency personnel in mitigation, preparedness, response and recovery operations.

e) Create a statewide Radiological Disaster Planning activity within the Bureau of Disaster Services focusing on the transportation corridors in the 44 counties and with emphasis on radiological risks associated with activities related to the Idaho National Engineering Laboratory.

W. OFFICE ON AGING

1. Arrange for representation in the Disaster Application Center when requested.

2. Provide information on the effects of the disaster emergency on the elderly.

3. Develop area-wide plans for the following:

a) Assess the needs of the elderly and home-bound elderly.

b) Coordination of senior services through area Office on Aging field offices during natural or man-made disasters.

c) Provide information/assistance to their clientele.

d) Utilization of senior citizen centers for shelter, mass feeding and rest centers.

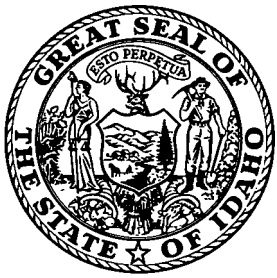
e) Identification of home-bound isolated elderly.

IV. EMERGENCY ACTIONS

Any emergency preparedness function under this Order or parts thereof may be transferred from one governmental agency to another with the consent of the heads of the agencies involved and with the concurrence of the Chief, Bureau of Disaster Services. Any new emergency preparedness function may be assigned to the head of a governmental agency by the Chief, Bureau of Disaster Services, by mutual consent.

The head of each governmental agency is hereby authorized to delegate the functions assigned to him by this Order.

This Order repeals and replaces Executive Order No. 91-19.



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 fourth day of January, in the year of our Lord nineteen hundred ninety-six, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 96-02

ESTABLISHMENT OF NON-SMOKING POLICY IN STATE BUILDINGS REPEALING AND REPLACING EXECUTIVE ORDER NO. 92-02

WHEREAS, there is need for a uniform state policy relating to smoking in state-owned and state-leased buildings; and

WHEREAS, it is the state's duty to protect the public health and safety, and to protect public buildings against fire damage and other related property damage; and

WHEREAS, the recent fire in the State Capitol has increased the awareness of the dangers and consequences of smoking;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, have determined that a non-smoking policy in public buildings is a prudent one; therefore, I hereby direct that the following policy shall govern officers and employees of the State of Idaho:

> All state-owned or state-leased buildings, facilities, or areas occupied by state employees shall henceforth be designated as "non-smoking" except for custodial care and full-time residential facilities. The policy governing custodial care and full-time residential facilities may be determined by the directors of such facilities.

FURTHER, I hereby encourage all employees in the State of Idaho to promote a non-smoking policy in all buildings occupied by state employees.

This Executive Order repeals and replaces Executive Order 92-02.

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 fifth day of January, in the year of our Lord nineteen hundred

ninety-six, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 96-03

ESTABLISH THE CAPITOL MALL AREA AS A WEAPON FREE ZONE

WHEREAS, the protection of elected officials and employees of state government from the potential threat of weapons in the work environment is a vital concern; and

WHEREAS, it is in the best interests of state officials, employees and the general public, and the efficient and safe operation of state government, to ensure the highest level of safety in the Capitol Mall Area; and

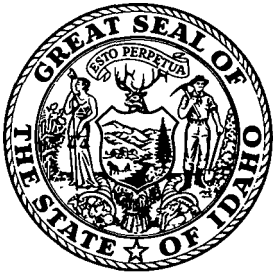
WHEREAS, there is currently no restriction on the possession of weapons in the Capitol Mall Area; and

WHEREAS, allowing state elected officials and peace officers the ability to continue to carry a weapon in the Capitol Mall Area is necessary for the protection of the elected officials, state employees, and the general public;

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. Unless expressly exempted below, possession of a weapon in the Capitol Mall Area by any individual at any time is expressly prohibited.
2. The following individuals are exempt from this Executive Order:
   a. State Elected Officials;
   b. Peace officers as defined in Idaho Code Section 19-5101;
   c. Criminal investigators of the attorney general's office or a county prosecuting attorney's office; and
   d. Individuals or organizations displaying weapons as part of a historical or cultural presentation who have received written permission from the Office of the Governor.
3. The term "weapon" means: (1) any type of firearm or (2) any knife or similar object which has a blade in excess of six (6) inches in length.
4. "Capitol Mall Area" means: the Statehouse, Joe R. Williams Building (700 West State Street); Len B. Jordan Building (650 West State Street); State Parking Garage (550 West State Street) and the Towers Building (450 West State Street), including all underground tunnels which provide a walkway

between these buildings.



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 eighth day of February, in the year of our Lord nineteen hundred ninety-six, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 96-04

TRANSFER OF FUNDS TO THE DISASTER EMERGENCY ACCOUNT

WHEREAS, due to severe flooding in parts of the state of Idaho, the Office of the Governor, by virtue of the authority vested in me by Idaho Code Sections 46-601 and 46-1008, issued proclamation on the seventh, eighth and thirteenth days of February, 1996, declaring that states of extreme and disaster emergencies existed in the counties of Benewah, Clearwater, Kootenai, Latah, Nez Perce, Boundary, Bonner, Lewis, Shoshone and Idaho, including the Nez Perce Indian Reservation; and

WHEREAS, tremendous obligations and expenses have been and will be incurred by various departments and agencies of the state of Idaho in responding to assisting in efforts to deal with the extreme flooding emergency; and

WHEREAS, all funds in the Disaster Emergency Account created by Idaho Code Section 46-1005A have been expended; and

WHEREAS, no funds in the general account are available to transfer to the Disaster Emergency Account under the requirements set forth in Idaho Code Section 46-1005A(2)(b); and

WHEREAS, the Budget Reserve Fund #0150 and the Water Pollution Control Fund #0200 are eligible under Idaho Code Section 46-1005A(2)(c) to have moneys transferred from such funds to the Disaster Emergency Account to pay obligations and expenses incurred by the state of Idaho in dealing with the flooding emergency; and

WHEREAS, it is my judgement, as Governor of the state of Idaho, that any moneys transferred from the Budget Reserve Fund and the Water Pollution Control Fund up to the limits provided below would not be required to support the current year's appropriation of these funds;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the state of Idaho, by virtue of the authority vested in me by Section 46-1005A of the Idaho Code do hereby order as follows:

1. The state controller is directed to transfer moneys in

the Budget Reserve Fund and/or the Water Pollution Control Fund to the Disaster Emergency Account in such amount and at such times as directed by me or my designee, the Administrator of the Division of Financial Management. In no event shall more than five (5) million dollars be transferred from the Budget Reserve Fund and/or the Water Pollution Control Fund to the Disaster Emergency Account during the current fiscal year.

2. In no event may the revenues made available under this executive order exceed, during any fiscal year, one percent (1%) of the annual appropriation of general account moneys for the fiscal year.

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-second day of February, in the year of our Lord nineteen hundred ninety-six, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 96-05

CONTINUATION OF THE DESIGNATION OF THE IDAHO TRANSPORTATION DEPARTMENT AN DIRECTOR AS THE RECIPIENT OF FEDERAL FUNDS FOR PUBLIC TRANSPORTATION, REI AND REPLACING EXECUTIVE ORDER NO. 92-03

WHEREAS, the federal government, under authority granted by the Federal Transit Act, as amended, is authorized to provide financial assistance to states to improve public transportation; and

WHEREAS, such aid has been offered to Idaho; and

WHEREAS, it is necessary that an agency of the State of Idaho be designated and authorized to receive and expend such financial assistance; and

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 continue the designation of the Idaho Transportation Department and its Director to receive and expend monies from the federal government for public transportation assistance as provided under the applicable federal statutes.

This Executive Order repeals and replaces Executive Order No. 92-03.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this the twenty-eighth day of March, in the year of our Lord nineteen hundred ninety-six, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 96-06

IDAHO COMMISSION FOR NATIONAL AND COMMUNITY SERVICE, REPEALING AND REPLACING EXECUTIVE ORDER NO. 94-02

WHEREAS, there is a compelling need for more civic participation to solve community and state problems and to address many unmet social, environmental, educational and public safety needs; and

WHEREAS, promoting the capability of Idaho's people, communities, and enterprises to work together is vital to the long-term prosperity of this state; and

WHEREAS, building and encouraging community service is an integral part of the state's future well-being, and requires cooperative efforts by the public and private sectors; and

WHEREAS, the development of a National Service Program in Idaho requires an administrative vehicle conforming with federal guidelines as set forth in the recently enacted National and Community Service Trust Act of 1993;

NOW, THEREFORE, I, 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 Idaho Commission for National and Community Service ("Commission") is hereby established to advise and assist in the development and implementation of a comprehensive, state-wide plan for promoting volunteer involvement and citizen participation in Idaho, as well as to serve as the state's liaison to national, state and community organizations which support the intent of the National and Community Service Trust Act of 1993 ("the Act").
2. The Commission will be composed of no fewer than 15 and no more than 25 voting members to be appointed by the Governor in compliance with federal guidelines as described in the Act

of 1993 and as detailed below:

a) The Commission's membership will include a representative of a community-based agency or organization in the state; the head of the State education agency or his or her designee; a representative of local government in the State; a representative of local labor organizations in the State; a representative of business; an individual between the ages of sixteen (16) and twenty-five (25), inclusive, who is a participant or supervisor of a service program for school-age youth or of a campus-based or national service program; a representative of a national service program; and individual with expertise in the educational, training, and development needs of youth, particularly disadvantaged youth; and an individual with experience in promoting the involvement of older adults (age 55 and older) in service and volunteerism. The Corporation for National and Community Service ("Corporation") will designate one of its employees to serve as an ex officio member on the Commission. Other members may include: educators, including representatives from institutions of higher education and local education agencies; experts in the delivery of human, educational, environmental, or public safety services; representatives of Indian tribes; out-of-school youth or at-risk youth; and representatives of programs that are administered or receive assistance under the Domestic Volunteer Service Act.

b) Not more than twenty-five (25) percent of the Commission members may be employees of state government, though the Governor may appoint additional state agency representatives to sit on the Commission as non-voting ex officio members. Members may not vote on issues affecting organizations for which they have served as a staff person or as a volunteer at any time during the preceding twelve (12) months.

c) Not more than fifty (50) percent of the Commission plus one member may be from the same political party. To the maximum extent practicable, membership of the state Commission shall be diverse with respect to race, ethnicity, age, gender and disability characteristics. Members will serve for a term of three years. One-third of the appointments to the first Commission will serve terms of one year; and one-third will serve terms of two years; one-third will serve terms of three years. Vacancies among the members shall be filled by an appointment by the Governor to serve for the remainder of the unexpired term.

d) The Commission will elect from among its members a chairperson.

e) The Governor will appoint one individual who is not a member of the Commission to serve at his pleasure as administrator of the Commission.

3. The Commission will have the following duties and responsi-

bilities:

a) To develop a three-year comprehensive national and community service plan and establishment of state priorities;

b) To administer a competitive process to select national service programs to be included in any application to the Corporation for National and Community Service for funding;

c) To prepare an application to the Corporation to receive funding and/or educational awards for the programs designated in the Act;

d) To assist the State education agency in preparing the application for subtitle B school-based service learning programs;

e) To administer the grants awarded pursuant to the Act and to oversee and monitor the performance and progress of funded programs;

f) To implement, in conjunction with the Corporation, comprehensive, non-duplicative evaluation and monitoring systems;

g) To assist in the development of programs pursuant to the Act;

h) To develop mechanisms for recruitment and placement of people interested in participating in national service programs;

i) To assist in the provision of health and child care benefits to eligible program participants as specified by regulations pertaining to this Act;

j) To make recommendations to the Corporation with respect to priorities within the State for programs receiving assistance pursuant to the Act;

k) To coordinate with other state agencies that administer Federal financial assistance programs under the Community Service Block Grant Act (42 U.S.C. 9901 et seq.) or other appropriate Federal financial assistance programs;

l) To coordinate its functions with any division of ACTION or the Corporation, that carries out volunteer service programs in the state; and

m) Other activities as necessary to further the development and implementation of programs which enhance national and community service.

4. The Idaho Department of Correction shall serve as the host agency for administration of the Commission, and, as is deemed appropriate by the Governor, additional support may be requested from the Departments of Employment, Education, Commerce, Health and Welfare, the Division of Vocational Education and the Office of the State Board of Education.

5. The Commission and its activities shall be funded from federal, state and other revenues appropriated to the Idaho Commission on National and Community Service. The Commission is authorized to accept funds and in-kind services from other state and private entities.

6. The Commission shall meet at least quarterly. Failure to

attend at least seventy-five (75) percent of the meetings in any calendar year shall result in removal from the Commission. A quorum shall consist of a simple majority of voting members.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this the twenty-ninth day of March in the year of our Lord nineteen hundred ninety-six, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 96-07

COOPERATIVE ENGINEERING SUPPORT STAFF

WHEREAS, the State Board of Education and Board of Regents of the University of Idaho have transferred the administrative responsibility for the Boise Engineering Program from the University of Idaho to Boise State University effective July 1, 1996; and

WHEREAS, in connection with such transfer, the State Board of Education directed Boise State University to attempt to accommodate any displaced University of Idaho employees; and

WHEREAS, Boise State University cannot transfer the University of Idaho's Engineering program clerical, non-exempt employees to Boise State University classified employment except under IDAPA 28.01.040 and therefore cannot comply with the State Board of Education's directive without the aid of an executive order;

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. That the non-exempt employees of the University of Idaho, currently employed by the Cooperative Engineering Program in Boise, Idaho, be considered as falling within and becoming subject to the provisions of Chapter 53, Title 67, Idaho Code as of July 1, 1996; and
2. That the non-exempt employees of the University of Idaho, currently employed by the Cooperative Engineering Program in Boise, Idaho, be considered as falling within and becoming subject to the provisions of Chapter 53,

Title 67, Idaho Code prior to July 1, 1996, only for the purpose of transferring to a vacant comparable position at Boise State University.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this the eleventh day of April, in the year of our Lord nineteen hundred ninety-six, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

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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
INEL = Idaho National Engineering Laboratory
MV = Motor Vehicle
PERSI = Public Employees Retirement System
PUC = Public Utilities Commission

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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 Philip E. 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)

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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
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Agricultural Affairs, Education
Local Government/Taxation

Carol Pietsch (D), House Seat A . . . . . 1st Term
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Business Co-Owner/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
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Realtor/Rancher Wife - "Bing" Karen
VICE CHAIR--Judiciary/Rules
Agricultural Affairs, 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 CHAIR--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
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3-KOOTENAI COUNTY

Gordon F. Crow (R), Senate . . . . . 1st Term
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Transportation/Defense

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State Affairs

4-BENEWAH, KOOTENAI & SHOSHONE COUNTIES

Mary Lou Reed (D), Senate . . . . . 6th Term
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State Affairs

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5-LATAH COUNTY

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CHAIR--Education
Resources/Environment, Transportation

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6-NEZ PERCE COUNTY

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CO-CHAIR--Legislative Oversight Committee
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7-BENEWAH, CLEARWATER, IDAHO, LATAH, LEWIS & NEZ PERCE COUNTIES

Marguerite McLaughlin (D), Senate ..... 7th Term
(Served 2 terms House, 1979-82)
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DEMOCRATIC CAUCUS CHAIR
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8-ADAMS, BOISE, GEM, IDAHO & VALLEY COUNTIES

Judi Danielson (R), Senate ..... 1st Term
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Commerce/Human Resources, Education

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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
Judiciary/Rules, State Affairs

Ron Crane (R), House Seat A ..... 7th Term
1907 Alder, Caldwell 83605
Home 459-4990
Businessman Wife - Cheryl
CHAIR--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
CHAIR--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
CHAIR--Finance, CO-CHAIR--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
CHAIR--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
CHAIR--Business
Local Government, Revenue/Taxation

12-CANYON COUNTY

J. L. "Jerry" Thorne (R), Senate ..... 6th Term
331 Winther Blvd., Nampa 83651
Home 467-2892 FAX 466-1133
Retired Wife - Lois
CHAIR--Local Government/Taxation
VICE CHAIR--Finance (JFAC)
Transportation

Dolores J. Crow (R), House Seat A ..... 7th Term
203 11th Ave. S. Extension, Nampa 83686
Home 467-1302 Husband - Wayne
CHAIR--Environmental Affairs
Revenue/Taxation

William W. Deal (R), House Seat B ..... 3nd Term
917 2nd St. So, P.O. Drawer B, Nampa 83653
Home 466-3184 Bus 466-2465/887-1077
Insurance Wife - Joan
VICE CHAIR--State Affairs
Business, Local Government

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 CHAIR
VICE CHAIR--State Affairs
Judiciary/Rules

Debbie S. Field (R), House Seat A . . . . . 1st Term
3236 Chickory Way, Boise 83706
Home 336-8565 Husband - Mike
Political Consultant
Judiciary/Rules, State Affairs

Dave Baumann (R), House Seat B . . . . . 1st Term
5620 S. Amaryllis, Boise 83705-6820
Home 343-4051 FAX 343-4051
Sales -- Air & Water Purifiers Wife - Irene
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 CHAIR--Transportation
Health/Welfare, Judiciary/Rules

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
Business, 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

John C. Andreason (R), Senate . . . . . 1st Term
(Previously served in Senate, 1967-1970)
5120 Mountain View Drive, Boise 83704
Home 322-8558
Retired Wife - Darlene
Commerce/Human Resources, Education
Judiciary/Rules

Paul Kjellander (R), House Seat A . . . . . 1st Term
9880 West Lupine, Boise 83704
Home 322-6954 Bus 385-3752
Boise State University 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 327-3400
Insurance Wife - Clydene
VICE CHAIR--Business
Education, Health/Welfare

16-ADA COUNTY

Cecil D. Ingram (R), Senate . . . . . 2nd Term
7025 El Caballo Dr., Boise 83704
Home 375-8876
Retired, Boise Cascade Corporation Wife - Ann
CHAIR--Agricultural Affairs
Finance (JFAC), Transportation

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
CPA--Insurance/investments Wife - Edna (Eddie)
CHAIR--Health/Welfare
Local Government

Ralph Gines (R), House Seat A . . . . . 1st Term
(Previously served in House 1973-1976)
6609 Ashland Dr., Boise 83709 Wife - Sue Ann
Home 376-4615 Business 377-0074
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
CHAIR--Local Government
State Affairs

18-ADA COUNTY

James E. Risch (R), Senate . . . . . 1st Term
(Previously served in Senate, 1975-1988)
5400 S. Cole Rd., Boise 83709
Home 362-2626 Bus 345-9974
Attorney and Rancher Wife - Vicki
ASSISTANT MAJORITY LEADER
Judiciary/Rules, State Affairs

William T. "Bill" Sali (R), House Seat A . . . 3rd Term
2295 W. Columbia, Meridian 83642
Home 888-3165 Wife - Terry
Attorney
VICE CHAIR--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 CHAIR--Education
Business, Local Government

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.
CHAIR--Appropriations, CO-CHAIR--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
Retired teacher and school dist mgr/Farm owner
CHAIR--Agricultural Affairs
Education, Resources/Conservation

Robbi King (R), House Seat B . . . . . 2nd Term
P.O. Box 280, 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 FAX 788-4444 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

John Sandy (R), Senate . . . . . 1st Term
3104 S. 1200 E, Hagerman 83332
Home 837-6680 Wife - Robin
Farmer/Private Businessman
Agricultural Affairs, Commerce/Human Resources
Education

Celia R. Gould (R), House Seat A . . . . . 5th Term
4406 N. 1400 E., Buhl 83316
Home/Bus. 543-6725
Rancher Husband - Bruce Newcomb
CHAIR--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
Agricultural Affairs
Education, Resources/Conservation

23-TWIN FALLS COUNTY

Laird Noh (R), Senate . . . . . 8th Term
3442 Addison Ave E., Kimberly 83341
Home 733-3617 Wife - Kathleen
Sheep Producer
CHAIR--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
CHAIR--Education
Business, Health/Welfare

Mark D. Stubbs (R), House Seat B . . . . . 3rd Term
P.O. Box 1846, Twin Falls 83303
Home 733-0049 FAX 733-7967 Bus 733-7180
Attorney Wife - Jan
VICE CHAIR--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
CHAIR--Commerce/Human Resources
Finance (JFAC), Resources/Environment

Steve Antone (R), House Seat A . . . . . 14th Term
1141 Link St., Rupert 83350
Phone 436-3927
Farmer Wife - Diane
CHAIR--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 CHAIR--Agricultural Affairs
Appropriations (JFAC), Resources/Conservation

25-CASSIA, MINIDOKA & TWIN FALLS COUNTIES

Denton Darrington (R), Senate . . . . . 7th Term
302 S. Highway 77, Declo 83323
Home 654-2712 Bus. 678-6613
Farmer/Teacher Wife - Virgene
CHAIR--Judiciary/Rules
Health/Welfare, State Affairs

Jim D. Kempton (R), House Seat A . . . . . 3rd Term
HC 36, Box 28, Albion 83311
Home 673-6261 Wife - Susan
Developer
VICE CHAIR--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-CHAIR--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 (JFAC), Local Government/Taxation
Transportation

JoAn E. Wood (R), House Seat A . . . . . 7th Term
3778 E. 500 N., Rigby 83442
Home 745-7846 Husband - Thomas D.
Partner-Ranch/Farm
CHAIR--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 CHAIR--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 CHAIR--Agricultural Affairs
Health/Welfare, Resources/Environment

Diana Richman (R), House Seat A . . . . . 1st Term
3381 N. 5000 E., Sugar City 83448
Home 458-4149 FAX 458-4661
Farmer
Education, 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 - Elizabeth
CHAIR--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 CHAIR--Local Government/Taxation
Finance (JFAC), Transportation

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
Agricultural Affairs, Appropriations (JFAC)
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
CHAIR--State Affairs
Finance (JFAC), Resources/Environment

Jack T. Barraclough (R), House Seat A . . . . 2nd Term
3018 Westmoreland Circle, Idaho Falls 83402
Home 523-4463
Hydrologist Wife - Elaine
VICE CHAIR--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 CHAIR--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 CHAIR--Resources/Conservation
Appropriations (JFAC), Transportation/Defense

Thomas F. Loertscher (R), House Seat B . . . 5th Term
1357 Bone Road, Iona 83427
Home 522-3072 FAX 522-1141
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
VICE CHAIR--Education
Agricultural Affairs, Resources/Environment

Robert C. Geddes (R), House Seat A . . . . . 10th Term
7235 N. 2600 West, Preston 83263
Home 852-1376
Farmer Wife - Carma
VICE CHAIR--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 CHAIR
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 CHAIR
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
CHAIR--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
Health/Welfare, Local Government/Taxation

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