GENERAL LAWS

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STATE OF IDAHO

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FIFTY-FOURTH 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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Secretary of State
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CHAPTER 224
(H.B. No. 598)

AN ACT

RELATING TO THE PROVISION OF PERSONAL CARE SERVICES; AMENDING SECTION 39-5602, IDAHO CODE, TO DELETE AND TO CLARIFY DEFINITIONS; AMENDING SECTION 39-5603, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT SHALL ENTER INTO AGREEMENTS WITH PROVIDERS FOR PERSONAL CARE SERVICES, AND TO PROVIDE FOR REVOCATION OR DENIAL OF PROVIDER STATUS FOR VIOLATION OF RULES; AMENDING SECTION 39-5606, IDAHO CODE, TO PROVIDE FOR PAYMENT TO PROVIDERS AND INCLUDE REFERENCE TO A SUPPLEMENTAL COMPONENT OF THE RATE FOR PERSONAL CARE ATTENDANTS; AND REPEALING SECTION 39-5607, IDAHO CODE.

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

SECTION 1. That Section 39-5602, Idaho Code, be, and the same is hereby amended to read as follows:

39-5602. DEFINITIONS. As used in this chapter, the following terms shall have the following meaning:

(1) "Associated services" means those tasks performed which do not require hands-on care such as incidental housekeeping, cooking, laundry, shopping, and transportation included in the care plan.

(2) "Case management" means a service which coordinates multiple services for individual clients through a process of assessment, planning, arranging for and monitoring services.

(3) "Department" means the department of health and welfare of the state of Idaho.

(4) "Director" means the director of the department of health and welfare.

(5) "Eligible recipient" or "recipient" means an individual determined eligible by the department for the services provided in the state plan for medicaid, as authorized by title XIX, of the social security act, as amended.

(6) ~~"Independent-provider"-means-a-personal-care--attendant--that provides-personal-care-services-as-an-independent-contractor;~~

~~(7)--"Independent--contractor"--means-a-sole-proprietorship,-partnership,-corporation-or-other-business-entity-approved-in-the-state-of Idaho-to-conduct-business-and-meeting-all-federal-and--state--criteria as-an-independent-contractor;~~

~~(8)~~ "Personal care attendant" means a person whose name appears on the Idaho state board of nurse's registry of certificated nurse aid's (CNA) or is determined by the director to meet equivalent requirements and holds, or works for a provider agency that holds, a valid Idaho medicaid provider agreement for personal care services; and provides hands-on personal care services.

(9~~7~~) "Personal care services" means services that involve personal and medically orientated tasks dealing with the physical requirements of the patient performed in the patient's home and accommodating the patient's needs for long-term maintenance, supportive care or associated services.

(~~10~~8) "Plan of care" means a document which outlines all services, including but not limited to, personal care services, required to maintain the individual in his or her community.

(9) "Provider" means a personal care attendant or provider agency.

(1~~1~~0) "Provider agency" means an entity that recruits, hires, fires, trains, supervises, schedules, oversees quality of work, takes responsibility for care given, and provides payroll and benefits for care providers working for them.

(1~~2~~1) "Representative" means an employee of the department of health and welfare.

SECTION 2. That Section 39-5603, Idaho Code, be, and the same is hereby amended to read as follows:

39-5603. STANDARDS FOR PROVISION OF PERSONAL CARE. The director shall have the power and it shall be his duty to promulgate and adopt appropriate rules necessary to implement and enforce standards for provision of personal care services.

The following standards for provision of personal care services and other provisions contained throughout this chapter and rules shall apply to recipients and providers receiving or providing personal care services either as a medicaid option service or a waivered service, unless prohibited by federal law or contents of the federal waiver agreement.

(1) Personal care services shall be included as a state plan service under medicaid. Services under a waiver shall be available to those individuals who would not qualify for medicaid in the absence of a waiver or to those whose needs cannot be met with personal care services under the plan.

(2) Personal care services shall be ordered by a physician.

(3) The department will establish by rule maximum hours per month of personal care services available to the individual recipient.

(4) The department shall enter into ~~contracts and/or provider~~ agreements with ~~independent contractors~~ providers for the provision of personal care services. The department may deny provider status or revoke that status when a provider is found to endanger the health, person or property of the recipient, or is in violation of rules promulgated by the department or the provider agreement.

(5) ~~An independent contractor~~ provider agency shall have the responsibility for the following:

(a) Recruitment, hiring, firing, training, supervision, scheduling, payroll, and the assurance of quality of service, of its personal care attendants;

(b) Complying with state and federal labor and tax laws, rules and regulations;

(c) Maintaining liability insurance coverage;

(d) Provision of an appropriately qualified nurse to complete the plan of care and ongoing supervision of the recipients care;

(e) Assignment of a qualified personal care attendant to each authorized recipient after consultation with and prior approval of that recipient;

(f) Assuring all personal care attendants providing services,

whether themselves or their agent, meet the standards and qualifications of this chapter;

(g) Billing medicaid for services approved and authorized by them;

(h) Making referrals for personal care service recipients to case management services based on established criteria;

(i) Providing for care by a qualified replacement when the regular personal care attendant is unable to provide the services, and providing for unanticipated services approved on the plan of care when requested by the recipient; and

(j) Conducting, at least annually, client satisfaction/quality control reviews available to the department and general public.

(6) ~~Independent--providers-not-qualifying-as-independent-contractors-shall-not-be-eligible-for-medicaid--payment--after--December--31,-1997;--provided--however,--that--the-director-may-extend-this-deadline until-the-last-day-of-June,-1998.-The-independent-provider--will~~ Personal care attendants are not ~~be-considered-an~~ employees of the state. ~~or-the-recipient,-but-will-be-considered-an-independent-contractor.-As such--he--shall-be-responsible-to-meet-requirements-established-by-the department.~~ The department will provide a qualified nurse to establish a plan of care and ongoing care supervision, where ~~an-independent-provider~~ personal care attendant is providing service.

(7) Case management shall be made available to personal care service recipients where and when appropriate. In order to avoid a conflict of interest, case management shall not be provided by the same agency that provides personal care services to the recipient. Services provided by case managers include but are not limited to:

(a) Comprehensive assessment;

(b) Assistance with eligibility and application processes;

(c) Service plan development;

(d) Service plan implementation;

(e) Reassessment and service termination planning; and

(f) Supportive functions which may include client advocacy, assistance, consultation, including training to enable the recipient to manage and evaluate the care they receive, family support, crisis intervention or follow-up after termination from case management when necessary.

(8) The department's regional medicaid staff shall review and approve the plan of care, authorize personal care services, the hours of service, and make appropriate referrals for case management for eligible individuals.

(9) The department shall establish a community awareness program that will educate Idaho citizens regarding the purpose and function of all long-term care alternatives including, but not limited to, personal care services and individual recipient rights. This program will be developed in cooperation with other state agencies including, but not limited to, the office on aging and the division of vocational rehabilitation.

(10) It shall be the responsibility of the recipient, his parents or guardian, when possible, to select the provider of personal care services.

(11) The department shall provide the recipient, his parents or guardian with a list of available providers of personal care services;

however, this does not relieve the recipient, his parents or guardian of the responsibility of provider selection.

(12) In those cases where the recipient, his parents or guardian cannot arrange for personal care services or asks for help in making arrangements, a representative of the department may arrange for or help arrange for personal care services on behalf of the recipient.

SECTION 3. That Section 39-5606, Idaho Code, be, and the same is hereby amended to read as follows:

39-5606. PAYMENT TO BE MADE TO PROVIDER. Within the appropriations provided by law, and as authorized by rule, the department shall reimburse the ~~independent~~ provider ~~or provider--agency,~~ for personal care services received by the recipient. To qualify for reimbursement, personal care services must be prescribed by a physician delivered in accordance with the recipient's plan of care and be provided by an individual who is:

(a) A personal care attendant;

(b) Supervised by a registered nurse; and

(c) Not a member of the recipient's family.

The department will establish annually uniform reimbursement rates for ~~independent contractors~~ providers. This rate will be based on the prevailing hourly rate paid for comparable positions in the state for nursing home industry employees. ~~Independent--contractors~~ Provider agencies shall also receive a fifty-five percent (55%) supplemental component to cover travel, administration, training and all payroll taxes and fringe benefits. Personal care attendant rates shall have a supplemental component to cover training, worker's compensation, social security and liability insurance. The department may establish different rates for associated services. When the assessment tool referred to in sections 39-3308 and 39-3508, Idaho Code, becomes available, it shall be applied to establish reimbursement levels.

~~All references in this chapter made to independent providers shall become null and void effective January 1, 1998; provided however, that the director may extend this deadline until the last day of June, 1998.~~

The director shall promulgate and adopt such necessary rules to implement the requirements of this section.

SECTION 4. That Section 39-5607, Idaho Code, be, and the same is hereby repealed.

Approved March 20, 1998.

CHAPTER 225
(H.B. No. 460)

AN ACT

RELATING TO THE DEPARTMENT OF INSURANCE; AMENDING SECTION 41-401, IDAHO CODE, TO ELIMINATE THE REQUIREMENT THAT FEES BE COLLECTED IN ADVANCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-401, Idaho Code, be, and the same is hereby amended to read as follows:

41-401. FEES -- LICENSES -- MISCELLANEOUS CHARGES. (1) The director shall collect ~~in advance~~, and persons so served shall pay to the director ~~in advance,~~ fees, licenses, and miscellaneous charges as provided for from time to time by ~~regulation~~ rule promulgated by the director. The director may adjust fees, licenses and miscellaneous charges as necessary to allow the department to meet the appropriation as provided for by law.

(2) Any ~~regulation~~ rule setting fees, licenses and miscellaneous charges shall adhere to the Idaho administrative procedure act except that the effective date of such ~~regulation~~ rule shall be July 1 of the calendar year of enactment or change. If the appropriation is not known or set by April 1, the director shall be authorized to use emergency rulemaking procedures to maintain an effective date of July 1.

(3) Insurance Administrative Account:

(a) There is hereby created an account in the dedicated fund in the state treasury, to be designated the "Insurance Administrative Account" to provide for the expenses of the department of insurance as provided for by law.

(b) The insurance administrative account shall be effective December 31, 1984, and be in existence for a period of at least six (6) months prior to the dedicated account appropriation becoming effective and shall consist of the following:

1. All moneys appropriated by the legislature.
2. All fees, licenses and miscellaneous charges collected pursuant to this section.

(c) All moneys placed in the account shall be examined, audited and allowed in the manner now or hereafter provided by law.

(d) Pending use for purposes of the provisions of the laws of this state, moneys in the insurance administrative account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury.

(e) At the beginning of each fiscal year, those moneys in the insurance administrative account which exceed the current year's appropriation plus any residual encumbrances made against prior years' appropriations by twenty-five percent (25%) or more shall be transferred to the general account. The balance in this account shall not be considered excessive until such a transfer is required pursuant to the provisions of this subsection.

Approved March 20, 1998.

CHAPTER 226
(H.B. No. 731, As Amended in the Senate)

AN ACT

RELATING TO THE BOARD OF TAX APPEALS; AMENDING SECTION 63-3809, IDAHO CODE, TO PROVIDE THAT A HEARING WILL BE CONDUCTED AND A RECOMMENDED DECISION RENDERED BY A HEARING OFFICER OR BY ONE MEMBER OF THE BOARD OF TAX APPEALS AND THE RECOMMENDED DECISION SHALL BECOME FINAL WHEN SIGNED BY AT LEAST TWO BOARD MEMBERS, TO PROVIDE IF THE RECOMMENDED DECISION FAILS TO GAIN THE SIGNATURE OF TWO MEMBERS, THE CHAIRMAN SHALL DIRECT THAT A SUBSTITUTE RECOMMENDED DECISION BE DRAFTED FOR SUBMISSION TO BOARD MEMBERS AND WHICH SHALL BECOME FINAL UPON THE SIGNATURE OF TWO OR MORE MEMBERS AND TO PROVIDE FOR A HEARING BY THE ENTIRE BOARD PRIOR TO A FINAL DECISION BEING RENDERED.

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

SECTION 1. That Section 63-3809, Idaho Code, be, and the same is hereby amended to read as follows:

63-3809. HEARINGS -- MATTER CONSIDERED BY BOARD TO BE OF PUBLIC IMPORTANCE. Hearing assignments will be made by the chairman.

(1) A hearing will be conducted and a recommended decision rendered by a hearing officer or by one (1) member of the board. The recommended decision shall become final when signed by at least two (2) board members.

(2) If the recommended decision fails to gain the signature of two (2) members, the chairman shall direct that a substitute recommended decision be drafted for submission to board members and which shall become final upon the signature of two (2) or more members.

(3) Prior to a final decision being rendered, ~~if~~, in the opinion of one (1) or more members of the board, a matter is of sufficient importance to the public, it may be certified for consideration by the entire board either at a hearing or upon a transcript of a hearing held by one (1) of its members and recorded in any suitable manner.

Approved March 20, 1998.

CHAPTER 227
(H.B. No. 793)

AN ACT

RELATING TO CHILD SUPPORT ENFORCEMENT; AMENDING SECTION 56-203F, IDAHO CODE, TO PROVIDE LIMITS UPON DATA MATCH FUNCTIONS, TO PROVIDE IMMUNITY FROM LIABILITY FOR ENTITIES ENTERING INTO AGREEMENTS WITH THE DEPARTMENT OF HEALTH AND WELFARE TO PROVIDE INFORMATION FOR DATA MATCHES TO FACILITATE CHILD SUPPORT ENFORCEMENT, AND TO MAKE A TECHNICAL CORRECTION.

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

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

56-203F. CHILD SUPPORT ENFORCEMENT -- AGREEMENTS WITH FINANCIAL INSTITUTIONS. (1) The legislature finds that the federal government has unreasonably mandated that the department must make certain agreements with financial institutions in this state for the purposes of improving the effectiveness of child support enforcement. The legislature also finds that the current system for child support enforcement in this state has historically performed well, and recent statutory changes have further improved it, and that the mandated system will do little to improve such collections. This section is enacted to bring the state into compliance with the requirements of P.L. 104-193, sec. 372, and title IV-D of the social security act.

(2) The department is hereby authorized to establish a work group comprised of:

(a) Representatives of the types of financial institutions identified in ~~section--469A(d)(1)--of~~ 42 U.S.C. ~~666(a)~~ section 669a(d)(1);

(b) Representatives of "public utilities," "cooperatives," and "municipalities" as defined in section 61-332A, Idaho Code, and "telephone corporations" as defined in section 62-603, Idaho Code, and cable companies as defined in section 61-538, Idaho Code;

(c) Representatives of the department, which shall comprise no more than one-third (1/3) of the total members of the work group.

(3) The work group shall:

(a) Identify those minimum statutory changes and terms of agreements among the entities represented which are necessary to bring the state into compliance with ~~section--455(a)(17)--of~~ 42 U.S.C. section 666(a)(17);

(b) Define the type of information in the hands of financial institutions and utilities which is not otherwise available and which, if available to the department, would actually and verifiably improve the effectiveness of child support collection;

(c) As a term of each proposed agreement, limit authority to engage match functions and access to all information received to the smallest number of upper management in the department as is possible;

(d) Develop written protocol within the department for the foregoing, delineating which functions would be performed by which personnel and under what circumstances;

(e) Limit engagement of contracted data match functions to those obligors who are in arrears ~~of--at--least--five--thousand--dollars ($5,000)--or--for--one--(1)--year-and-only-after-all-other-methods available-to-the-department-have-failed~~ 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;

(f) Provide for annual statistical verification of the improvement to child support enforcement in this state which results from use of the data match functions contained in the proposed agreements;

(g) Design the data match system identified herein in such a manner that it will be the least intrusive, least expensive and most confidential system possible~~.~~;

(h) Develop a satisfactory contract term to protect the contracting entities from legal liability for disclosure of information as authorized by statute and to protect the public's right of action for wrongful disclosure.

(4) The department is authorized to enter into agreements with the entities ~~represented--by-members-of-the-work-group~~ identified in subsection (2) of this section, and pay reasonable compensation to such entities, not to exceed actual costs incurred by such entity in developing the data match system.

(5) Terms of an agreement between the department and an entity may provide for the entity to provide the following information to the department on each obligor who meets the criteria of delinquency as provided in subsection (3)(e) of this section: name, address and place of employment, if available. The information shall only be used for locate purposes.

(6) Notwithstanding any other provisions of federal or state law, any entity, or officer, agency or employee of the entity, acting in good faith, shall be immune from any civil or criminal liability for disclosing any information to a state child support enforcement agency pursuant to a contractual obligation arising under an agreement contemplated in this section or if the accumulation of such information is required in state or federal law, rule or regulation. An entity shall not be required to give notice to an account holder or customer of the entity concerning whom the entity has provided information pursuant to this section. The state child support enforcement agency which obtains information from any entity may disclose such information only for the purpose of, and to the extent necessary to establish, modify or enforce a child support obligation of a delinquent obligor.

Approved March 20, 1998.

CHAPTER 228
(H.B. No. 800)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 1999; REAPPROPRIATING UNEXPENDED AND UNENCUMBERED BALANCES FOR LEGISLATIVE TECHNOLOGY; AND REAPPROPRIATING UNEXPENDED AND UNENCUMBERED BALANCES FOR REAPPORTIONMENT.

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, 1998, through June 30, 1999:

A. LEGISLATIVE TECHNOLOGY:	
FROM:	
General Fund	$ 100,000
B. LEGISLATIVE SERVICES OFFICE:	
FROM:	
General Fund	$3,258,900
Miscellaneous Revenue Fund	43,400
Professional Services Fund	1,018,900
TOTAL	$4,321,200
C. OFFICE OF PERFORMANCE EVALUATIONS:	
FROM:	
General Fund	$ 444,200
D. REAPPORTIONMENT:	
FROM:	
General Fund	$ 108,000
GRAND TOTAL	$4,973,400

SECTION 2. There is hereby reappropriated to the Legislative Council the unexpended and unencumbered balance of the appropriation made in Section 1 of this act for Legislative Technology for the period July 1, 1999, through June 30, 2000.

SECTION 3. There is hereby reappropriated to the Legislative Council the unexpended and unencumbered balance of the appropriation made in Section 1 of this act for Reapportionment for the period July 1, 1999, through June 30, 2000.

Approved March 20, 1998.

CHAPTER 229
(H.B. No. 790)

AN ACT

RELATING TO HAZARDOUS WASTE; AMENDING SECTION 39-4427, IDAHO CODE, TO REDESIGNATE THE SECTION, AMEND THE CATCHLINE TO REFER TO COMMERCIAL DISPOSAL FEES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 44, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4427B, IDAHO CODE, TO PROVIDE FEES FOR GENERATORS OF HAZARDOUS WASTE; AMENDING CHAPTER 44, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4427C, IDAHO CODE, TO PROVIDE A FEE FOR A HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITY; AMENDING CHAPTER 44, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4427D, IDAHO CODE, TO PROVIDE FOR DUPLICATION OF HAZARDOUS WASTE FEES; AMENDING SECTION 39-4428, IDAHO CODE, TO AMEND THE CATCHLINE AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 39-4429, IDAHO CODE, TO PROVIDE CODE REFERENCES AND TO PROVIDE FOR APPLICATION OF APPLICABLE CODE PROVISIONS; AMENDING SECTION 39-4432, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO PROVIDE FOR THE DEPOSIT OF FEES IN THE HAZARDOUS WASTE MANAGEMENT ACCOUNT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-4427, Idaho Code, be, and the same is hereby amended to read as follows:

39-4427A. ~~HAZARDOUS--WASTE~~ COMMERCIAL DISPOSAL FEES. (1) On and after July 1, 1997, there is imposed on the owner or operator of every commercial hazardous waste disposal facility or site permitted under section 39-4409, Idaho Code, the lowest applicable fee for each ton of waste or fraction thereof, as follows:

(a) Hazardous wastes as defined by RCRA or section 39-4407, Idaho Code, and excluding hazardous wastes covered by paragraph (c) of this subsection: thirty dollars ($30.00) per gate ton or fraction thereof disposed of at the facility or site;

(b) PCB and all manifested waste other than wastes as defined in paragraph (a), (c), (d) or (e) of this subsection: twenty-five dollars ($25.00) per gate ton or fraction thereof disposed of at the facility or site;

(c) Hazardous waste that is delisted or treated so that it is no longer hazardous waste: five dollars ($5.00) per gate ton or fraction thereof disposed of at the facility or site;

(d) Wastes containing PCB's in concentrations less than fifty (50) parts per million and not regulated by the toxic substances control act, as amended, 15 U.S.C. section 2601 et seq., and all other waste not defined in paragraphs (a), (b), (c) and (d) of this subsection: five dollars ($5.00) per gate ton or fraction thereof;

(e) For wastes defined in paragraphs (a) and/or (b) above, after ~~twentyfive~~ twenty-five thousand (25,000) gate tons of such waste have been disposed of at a commercial hazardous waste facility or site in a calendar year: twenty dollars ($20.00) per gate ton or fraction thereof or any lower applicable fee for such waste disposed of at such facility or site, for the remainder of the calendar year.

(2) The fees set forth in subsection (1) of this section shall not apply to any of the following types of wastes:

(a) Wastes generated or disposed of by a public agency or other person operating a household hazardous waste collection program;

(b) Wastes generated or disposed of by any agency of the state of Idaho.

Any waste for which the fees are waived under the provisions of this section must be noted as fee-waived waste on the return required in section 39-4428, Idaho Code, and is subject to all audit provisions of section 39-4429, Idaho Code.

(3) For wastes disposed of by any agency of the state of Idaho at any commercial hazardous waste disposal facility or site permitted under section 39-4409, Idaho Code, the director, pursuant to a written agreement with the owner or operator of any such facility or site, may credit to the hazardous waste management account an amount equal to the actual cost charged by such owner or operator per gate ton or fraction thereof for the characterization, collection, identification, transportation, treatment, storage and disposal of wastes at such facility or site.

SECTION 2. That Chapter 44, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4427B, Idaho Code, and to read as follows:

39-4427B. GENERATOR FEES. (1) For any generator generating waste during calendar year 1998, there is imposed a generator fee to be remitted to the department of health and welfare no later than thirty (30) days after the end of calendar year 1998, as follows:

(a) A generator who generates two and two-tenths (2.2) pounds or more of acutely hazardous waste as defined by 40 CFR section 261, in any calendar month, or generates more than two thousand two hundred (2,200) pounds of hazardous waste at any time in a calendar month, shall be subject to an annual fee of two thousand dollars ($2,000);

(b) A generator who generates between two hundred twenty (220) and two thousand two hundred (2,200) pounds of hazardous waste in one (1) calendar month, shall be subject to an annual fee of seven hundred fifty dollars ($750).

(2) The fee set forth in subsection (1) of this section shall not apply to generators who:

(a) Are public or governmental entities; or

(b) Demonstrate, to the satisfaction of the director of the department, an inability to pay all or a portion of the fee.

SECTION 3. That Chapter 44, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4427C, Idaho Code, and to read as follows:

39-4427C. TREATMENT, STORAGE OR DISPOSAL FACILITY FEE. (1) Any hazardous waste treatment, storage and disposal facility subject to regulation by the department of health and welfare during calendar year 1998, shall be subject to a five thousand dollar ($5,000) fee to be remitted to the department of health and welfare no later than thirty (30) days after the end of calendar year 1998.

(2) The fee set forth in subsection (1) of this section shall not apply to facilities which:

(a) Are owned or operated by public or governmental entities; or

(b) Demonstrate, to the satisfaction of the director of the department, an inability to pay all or a portion of the fee.

SECTION 4. That Chapter 44, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4427D, Idaho Code, and to read as follows:

39-4427D. HAZARDOUS WASTE FEES -- DUPLICATION. (1) Any owner or operator, generator or treatment, storage or disposal facility subject to more than one (1) fee under section 39-4427A, 39-4427B or 39-4427C, Idaho Code, shall only be required to pay the highest applicable fee under any one (1) of those sections.

(2) For purposes of this section, the fee for section 39-4427A,

Idaho Code, shall be the total amount required to be paid under subsection (1) of section 39-4427A, Idaho Code.

SECTION 5. That Section 39-4428, Idaho Code, be, and the same is hereby amended to read as follows:

39-4428. COLLECTION OF COMMERCIAL DISPOSAL FEES -- RETURNS. The fees imposed under section 39-4427A, Idaho Code, shall be due and payable in monthly installments by the owner, agent, employee, or operator of such hazardous waste facility or site and remittance shall be made to the Idaho department of health and welfare on or before the fifteenth day of the month next succeeding the end of the monthly period in which the fee accrued. The owner, operator or designated employee or agent of the hazardous waste facility or site, on or before the fifteenth day of the month, shall make out a return, upon such forms setting forth such information as the department may require, showing the amount of the fee for which the owner or operator of the hazardous waste facility or site is liable for the preceding monthly period, and shall sign and transmit the same to the department, together with a remittance for such amount in the form required.

(2) The department may relieve any person or class of persons from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event shall returns be filed for a period greater than three (3) months.

SECTION 6. That Section 39-4429, Idaho Code, be, and the same is hereby amended to read as follows:

39-4429. BOOKS AND RECORDS TO BE PRESERVED -- ENTRY AND INSPECTION BY DEPARTMENT OF HEALTH AND WELFARE. Every person or entity subject to the imposition of the fees specified in sections 39-4427A, 39-4427B and 39-4427C, Idaho Code, shall keep complete and accurate records, including itemized invoices and manifests for federally regulated types and quantities of hazardous waste ultimately disposed of at a hazardous waste facility or site in Idaho. All books, documents and papers, computer tapes, discs, and other records required to be kept by this section shall be preserved for a period of at least five (5) years from the date of the records or the date of the entries appearing in the records, unless the department in writing, authorized their destruction or disposal at an earlier date. For purposes of this act, at any time during usual business hours, the department or duly authorized agents or employees, may enter any place of business of the owner or operator of a hazardous waste facility or site where hazardous wastes are disposed and inspect the premises, the records required to be kept under this chapter, and the hazardous wastes or other chemicals contained therein, to determine whether or not all the applicable provisions of sections 39-4427A, 39-4427B, 39-4427C and 39-4428, Idaho Code, are being fully complied with. Trade secret information obtained by the department under the provisions of this section shall be treated in the same manner as such information obtained under section 39-4411, Idaho Code. If the department, or any of its authorized agents or employees is unreasonably denied free access or is unreasonably hindered or interfered with in making the examination of

a hazardous waste facility or site, that hindrance or interference shall constitute grounds for suspension or revocation of the facility or site's permit by the director of the department of health and welfare under subsection (b) of section 39-4413, Idaho Code.

SECTION 7. That Section 39-4432, Idaho Code, be, and the same is hereby amended to read as follows:

39-4432. DISTRIBUTION OF HAZARDOUS WASTE MANAGEMENT FEE REVENUES. (1) The revenues received from the commercial disposal fees imposed by this chapter and any penalties, interest, or deficiency additions, shall be paid over to the state treasurer by the department to be distributed as follows:

(~~1~~a) An amount of money to maintain the hazardous waste management fee refund account, which is hereby created, and from which all refunds authorized to be paid by this act shall be paid, at a monthly balance of ten thousand dollars ($10,000) or at such greater sum as in the opinion of the department may be needed to meet reasonable requirements imposed on the hazardous waste management fee refund account.

(~~2~~b) The balance remaining with the state treasurer after deducting the amounts in (1) above, shall be remitted periodically but no less frequently than quarterly as follows: ninety-five percent (95%) shall be remitted to the hazardous waste management account created in section 39-4417B, Idaho Code, and the remaining five percent (5%) shall be remitted to the county treasurer of the county or counties where the activity occurred which caused the fees to be assessed pursuant to this chapter. Moneys shall be apportioned to the counties in the same proportional manner in which they were collected. Moneys returned to counties shall be utilized by the county to respond to health and environmental problems which may be caused by hazardous waste emergencies or spills, or improperly handled or packaged hazardous waste.

(2) The revenues received from the generator and treatment, storage or disposal facility fees imposed by this chapter and any penalties, interest, or deficiency additions relating to those fees, shall be paid over to the state treasurer by the department to be distributed to the hazardous waste management account created in section 39-4417B, Idaho Code.

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, 1998.

CHAPTER 230
(H.B. No. 788)

AN ACT

RELATING TO JOINT ADMINISTRATION OF EMPLOYMENT RELATED TAXES; PROVIDING A STATEMENT OF LEGISLATIVE INTENT; AMENDING SECTION 63-3035,

IDAHO CODE, TO CHANGE THE FILING DATE OF WITHHOLDING RETURNS WITH A RECONCILIATION TO MONTHLY PAYMENTS AND TO AUTHORIZE JOINT FILING OF EMPLOYMENT RELATED TAX RETURNS WITH THE DEPARTMENT OF LABOR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3035B, IDAHO CODE, TO AUTHORIZE JOINT FILING OF EMPLOYMENT RELATED TAX RETURNS WITH THE DEPARTMENT OF LABOR; AMENDING SECTION 63-3036, IDAHO CODE, TO REVISE PROCEDURES FOR WITHHOLDING TAX FOR FARMERS AND OTHERS EXEMPT FROM FEDERAL WITHHOLDING; AMENDING SECTIONS 63-3077A AND 72-1605, IDAHO CODE, TO AUTHORIZE EXCHANGES OF INFORMATION BETWEEN THE STATE TAX COMMISSION AND THE IDAHO DEPARTMENT OF LABOR FOR THE PURPOSE OF ADMINISTERING JOINT FILING OF EMPLOYMENT RELATED RETURNS WITH THE DEPARTMENT OF LABOR; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. STATEMENT OF LEGISLATIVE INTENT. It is the purpose of this act to reduce tax compliance burdens of employers and to permit the department of labor and the state tax commission to make the most efficient use of their powers and resources by enabling the department and the commission to cooperate in matters relating to employment security taxes and income tax withholding through common registration of employers, common tax reporting forms, centralized filing of returns and receipting of revenue and effective exchange of information.

SECTION 2. That Section 63-3035, Idaho Code, be, and the same is hereby amended to read as follows:

63-3035. STATE WITHHOLDING TAX ON PERCENTAGE BASIS -- WITHHOLDING, COLLECTION AND PAYMENT OF TAX. (a) Every employer who is required under the provisions of the Internal Revenue Code to withhold, collect and pay income tax on wages or salaries paid by such employer to any employee (other than employees specified in Internal Revenue Code section 3401(a)(2)) shall, at the time of such payment of wages, salary, bonus or other emolument to such employee, deduct and retain therefrom an amount substantially equivalent to the tax reasonably calculated by the state tax commission to be due from the employee under this ~~act~~ chapter. The state tax commission shall prepare tables showing amounts to be withheld, and shall supply same to each employer subject to this section. In the event that an employer can demonstrate administrative inconvenience in complying with the exact requirements set forth in these tables, he may, with the consent of the state tax commission and upon application to it, use a different method which will produce substantially the same amount of taxes withheld. Every employer making payments of wages or salaries earned in Idaho, regardless of the place where such payment is made:

(1) shall be liable to the state of Idaho for the payment of the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount deducted from his wages and paid over in compliance or intended compliance with this section;

(2) must ~~make-return-of-and~~ pay to the state tax commission monthly on or before the 20th day of the succeeding month, or at such other times as the state tax commission may allow, an amount of tax which, under the provisions of this ~~act~~ chapter, he is required to deduct and withhold;

(3) shall register with the state tax commission, in the manner prescribed by it, to establish an employer's withholding account number. The account number will be used to report all amounts withheld, for the annual reconciliation required in this section, and for such other purposes relating to withholding as the state tax commission may require; and

(4) must, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, if the amount of withholding of such employer for the preceding twelve (12) month period equals or exceeds sixty thousand dollars ($60,000) per annum or an average of five thousand dollars ($5,000) per month per annum, ~~make-return of-and~~ pay to the state tax commission on the basis of withholding periods which begin on the 16th day of the month and end on the 15th day of the following month, and ~~return-and~~ payment shall be made not later than five (5) days after the end of the withholding period.

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

(6) Commencing in 1994, the state tax commission shall determine whether the threshold amounts established by subsection (a)(4) of this section must be adjusted to reflect fluctuations in the cost of living. The commission shall base its determination on the cumulative effect of the annual cost-of-living percentage modifications determined by the United States secretary of health and human services pursuant to 42 USC 415(i). When the cumulative percentage applied to the monthly threshold amount equals or exceeds one thousand dollars ($1,000), the commission shall promulgate a rule adjusting the monthly threshold amount by one thousand dollars ($1,000) and making the necessary proportional adjustment to the annual threshold amount. The rule shall be effective for the next succeeding calendar year and each year thereafter until again adjusted by the commission. The tax commission shall determine subsequent adjustments in the same manner, in each case using the year of the last adjustment as the base year.

(b) (1) Every employer shall, ~~at-the-time-of-each-payment-made-by him-to-the-state-tax-commission,-deliver-to-the-state-tax--commission~~ file a return upon such form as shall be prescribed by ~~said~~ the state tax commission, ~~showing~~ but not more frequently than quarterly, or as required pursuant to any agreement between the state tax commission and the department of labor under section 63-3035B, Idaho Code. The return shall show, for the period to which it relates, the total amount of wages, salary, bonus or other emoluments paid to his employees, the amount deducted there-

from in accordance with the provisions of the Internal Revenue Code, the amount deducted therefrom in accordance with the provisions of this section, the amount of any previous payments made pursuant to this section, and such pertinent and necessary information as the state tax commission may require.

(2) Every employer making a declaration of withholding as provided herein shall furnish to the employees annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission and on or before the last day of February every employer shall file a copy thereof with the state tax commission. Every employer who is required, under Internal Revenue Code section 6011, to file returns on magnetic media or in other machine readable form may be required by rules of the state tax commission to file corresponding state returns on similar magnetic media or other machine readable form.

(c) All moneys deducted and withheld by every employer shall immediately upon such deduction be state money and every employer who deducts and retains any amount of money under the provisions of this ~~act~~ chapter shall hold the same in trust for the state of Idaho and for the payment thereof to the state tax commission in the manner and at the times in this ~~act~~ chapter provided. Any employer who does not possess real property situated within the state of Idaho, which, in the opinion of the state tax commission, is of sufficient value to cover his probable tax liability, may be required to post a surety bond in such sum as the state tax commission shall deem adequate to protect the state.

(d) The provisions of this ~~act~~ chapter relating to additions to tax in case of delinquency, and penalties, shall apply to employers subject to the provisions of this section and for these purposes any amount deducted, or required to be deducted and remitted to the state tax commission under this section, shall be considered to be the tax of the employer and with respect to such amount he shall be considered the taxpayer.

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year which begins within such calendar year and the return made by the employer under this subsection (e) shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this ~~act~~ chapter, the state tax commission shall, after examining the annual return filed by the employee in accordance with this ~~act~~ chapter, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted. No credit or refund shall be made to an employee who fails to file his return, as required under this ~~act~~ chapter, within three (3) years from the due date of the return, without regard to extensions, in respect of which the tax withheld might have been credited. In the event that the excess tax deducted is less than one dollar ($1.00), no refund shall be made unless specifically requested

by the taxpayer at the time such return is filed.

(f) This section shall in no way relieve any taxpayer from his obligation of filing a return at the time required under this ~~act~~ chapter, and, should the amount withheld under the provisions of this section be insufficient to pay the total tax of such taxpayer, such unpaid tax shall be paid at the time prescribed by section 63-3034, Idaho Code.

(g) An employee receiving wages shall on any day be entitled to the same number of withholding exemptions to which he is entitled under the Internal Revenue Code for federal income tax withholding purposes.

(h) An employer shall use the exemption certificate filed by the employee with the employer under the withholding exemption provisions of the Internal Revenue Code in determining the amount of tax to be withheld from the employee's wages or salary under this ~~act~~ chapter. The tax commission may redetermine the number of withholding exemptions to which an employee is entitled under subsection (g) of this section, and the state tax commission may require such exemption certificate to be filed on a form prescribed by the commission in any circumstance where the commission finds that the exemption certificate filed for Internal Revenue Code purposes does not properly reflect the number of withholding exemptions to which the employee is entitled under this ~~act~~ chapter. In no event shall any employee give an exemption certificate which claims a higher number of withholding exemptions than the number to which the employee is entitled by subsection (g) of this section.

SECTION 3. 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 63-3035B, Idaho Code, and to read as follows:

63-3035B. JOINT POWER AUTHORIZATION. The state tax commission may, pursuant to sections 67-2326 through 67-2333, Idaho Code, enter into an agreement with the department of labor providing for the joint administration of employment security taxes and income tax withholding through common registration of employers, common tax reporting forms, centralized filing of returns and receipting of revenue and effective exchange of information.

SECTION 4. That Section 63-3036, Idaho Code, be, and the same is hereby amended to read as follows:

63-3036. STATE WITHHOLDING TAX ~~ON-PERCENTAGE-BASIS~~ FOR FARMERS. ~~AND-OTHERS-EXEMPT-FROM-FEDERAL-WITHHOLDING.~~ (1) Every farmer who is an employer ~~and-employers-exempt-from-withholding-by-the-Internal-Revenue Code~~ shall at the time of the payment of wages, salaries, bonuses or other emoluments to an employee, deduct and retain therefrom an amount ~~equal-to-one-per-cent-(1%)-of-such-wage,-salary,-bonus-or-emolument-or the-value-of-such-emolument~~ determined in accordance with section 63-3035, Idaho Code, and the amount so withheld and deducted shall be held by said farmer-employer ~~and-other--employers~~ in trust for the state of Idaho and for the payment thereof to the state tax commis-

sion. Provided, that no tax need be withheld from an employee whose wages, salaries, bonuses and other emoluments total less than one thousand dollars ($1,000) for the tax year.

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

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

(b) On the last day of the month following the close of a calendar quarter if, in that quarter, a farmer-employer subject to this section pays gross wages, salaries, bonuses and other emoluments exceeding twenty thousand dollars ($20,000).

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

(4) The farmer-employer ~~or-other-employers~~ making such a deduction as provided for in this section shall furnish to the employee annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of the tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission and at the same time every employer shall file a copy thereof with the state tax commission. The provisions of subsections (d), (e), and (f), (g) and (h) of section 63-3035, Idaho Code, shall be applicable to the tax withheld by the farmer-employer ~~or other-employers~~ under this section. ~~The-tax-so-withheld-by-the-farmer-employer-or-other-employers-shall-be-paid-annually-to--the--state--tax commission-on-or-before-the-last-day-of-February-of-the-year-following the--year-in-which-such-deduction-was-made;-Provided,-that-no-tax-need be-withheld-from-an-employee-whose-wages,-salaries,-bonuses-and--other emoluments--total--less-than-one-thousand-dollars-($1,000)-for-the-tax year.~~

SECTION 5. That Section 63-3077A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3077A. AGREEMENTS FOR EXCHANGE OF INFORMATION AND JOINT ADMINISTRATION WITH DEPARTMENT OF ~~EMPLOYMENT~~ LABOR. (a) The state tax commission and the ~~Idaho~~ department of ~~employment~~ labor may enter into a written agreement for exchange of information relating to ~~persons--who have--or--may--have--undischarged-duties-or-liabilities-under~~ tax laws administered by the state tax commission or the department of ~~employment~~ labor. Any information so exchanged shall be confidential information in the hands of the recipient thereof and may be used only for the ~~purpose-of~~ following:

(1) ~~d~~Determining whether the person to whom the information relates may have an undischarged duty or liability under any tax law of this state, the amount of such liability, the person's

whereabouts, social security number, and information helpful in collecting taxes due.

(2) Administering any joint agreement between the department of labor and the state tax commission relating to employment security taxes and income tax withholding for the common registration of employers, common tax reporting forms, centralized filing and processing of forms.

(3) Administration of the state directory of new hires provided in chapter 16, title 72, Idaho Code.

(b) No such information shall be public information unless it is used in the course of a judicial proceeding arising under a tax statute of this state.

(~~b~~c) An agreement made pursuant to this section may provide for the offset of any refunds owed to any person by either party to the agreement against any tax liability or overpayment of benefits owed to the other party. No offset may be made unless the liability against which it is applied is final, without any further right on the part of the person owing the liability to either administrative or judicial review.

SECTION 6. That Section 72-1605, Idaho Code, be, and the same is hereby amended to read as follows:

72-1605. USE OF NEW HIRE INFORMATION. (1) The information collected pursuant to this chapter shall be used only for the following purposes:

(a) The department of health and welfare shall use the information to assist in its administration of any public assistance program and for child support enforcement purposes.

(b) The department of labor shall transmit the information to the national directory of new hires and may use the information to administer programs under the employment security law and may provide the information to the state tax commission for the proper administration of income tax withholding under the Idaho income tax act.

(c) The state insurance fund and the industrial commission may use the information to administer the worker's compensation program.

(2) Agencies that obtain information collected pursuant to this chapter shall maintain the confidentiality of the information received, except as provided in this chapter. If any employee or agent of the state, in violation of the provisions of this chapter, discloses information collected pursuant to this chapter, he or she shall be guilty of a misdemeanor.

SECTION 7. This act shall be in full force and effect on and after January 1, 1999.

Approved March 20, 1998.

CHAPTER 231
(H.B. No. 664)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-1120, IDAHO CODE, TO PROVIDE FOR REINSTATEMENT OF NONAGRICULTURAL LANDS BY AN IRRIGATION DISTRICT WHEN THE OWNER DESIRES TO RECEIVE IRRIGATION WATER THROUGH AN EXISTING SYSTEM OR A SYSTEM PROPOSED TO BE CONSTRUCTED, OR PURSUANT TO A LEASE OR CONTRACT AND TO PROVIDE FOR A FILING FEE AND A REINSTATEMENT FEE.

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

SECTION 1. That Section 43-1120, Idaho Code, be, and the same is hereby amended to read as follows:

43-1120. REINSTATEMENT OF NONAGRICULTURAL LANDS -- ORDER -- FILING FOR RECORD. Where lands ~~which~~ have been excluded from an irrigation district ~~as-not-agricultural-subsequently--are--included--in--the area--to-be-served-by-a-distribution-system-proposed-to-be-constructed under-authority-of-either-section-43-329-or--43-333,--Idaho--Code,--or under-any-law-authorizing-a-local-improvement-district,~~ under the provisions of this chapter and the owner or owners of the excluded lands desire to receive irrigation water: through ~~the-proposed~~ an existing distribution system; ~~or~~ through a distribution system ~~already~~ proposed to be constructed under ~~either--such~~ authority of section 43-329, 43-330A or 43-333, Idaho Code, or under any law authorizing a local improvement district; pursuant to a lease executed under section 43-335 or 43-338, Idaho Code; or pursuant to a contract executed under section 43-730, Idaho Code, the owner or owners may file with the secretary of the irrigation district a written request, signed and acknowledged in the manner required for conveyances of real property, that the lands be reinstated by the irrigation district. Upon receipt of such a request~~,-and-if-the-water-rights-formerly-appurtenant-to-the lands--have-not-been-formally-allocated-or-transferred-to-other-lands,~~ the board of directors of the irrigation district, in its discretion, may enter an order declaring that the lands are reinstated to their former status, including the water rights, and directing the assessor of the irrigation district to enter the lands on the assessment roll. A copy of the order or resolution of reinstatement, certified by the president and secretary of the district, shall be filed for record in the office of the county recorder of each county wherein any portion of the reinstated land is situated. The district may charge a filing fee not to exceed the costs of processing the reinstatement request, and may also charge a reinstatement fee not to exceed the exclusion fee provided in section 43-1101, Idaho Code.

Approved March 20, 1998.

CHAPTER 232
(H.B. No. 653)

AN ACT

RELATING TO THE IDAHO SAFE BOATING ACT; AMENDING SECTION 67-7077, IDAHO CODE, TO ALLOW A WATER VESSEL TO SAFELY OPERATE WITHIN ONE HUNDRED FEET OF A DOCK WHEN DROPPING OFF A WATER SKIER WHO IS TWELVE YEARS OF AGE OR YOUNGER.

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

SECTION 1. That Section 67-7077, Idaho Code, be, and the same is hereby amended 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: (a) in a negligent manner as prescribed in section 67-7017, Idaho Code, while within one hundred (100) feet of another vessel; or (b) 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, except when safely pulling a water skier from a dock, or when safely dropping off a water skier who is twelve (12) years of age or younger at or near a dock, or when the swimmer or other person in the water is the vessel's water skier.

Approved March 20, 1998.

CHAPTER 233
(H.B. No. 641)

AN ACT

RELATING TO COMPENSATION OF MEMBERS OF THE BOARD OF TAX APPEALS; AMENDING SECTION 63-3804, IDAHO CODE, TO PROVIDE THE COMPENSATION OF MEMBERS OF THE BOARD OF TAX APPEALS.

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

SECTION 1. That Section 63-3804, Idaho Code, be, and the same is hereby amended to read as follows:

63-3804. COMPENSATION. Each member of the board shall be compensated ~~as provided by section 59-509(i)~~ in the amount of two hundred dollars ($200) per day and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code.

Approved March 20, 1998.

CHAPTER 234
(H.B. No. 634)

AN ACT
RELATING TO PUBLIC EMPLOYEES; AMENDING SECTION 67-5335, IDAHO CODE, TO PROVIDE THAT AN EMPLOYEE MAY TRANSFER VACATION LEAVE TO ANOTHER EMPLOYEE UNDER CONDITIONS SPECIFIED.

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

SECTION 1. That Section 67-5335, Idaho Code, be, and the same is hereby amended to read as follows:

67-5335. VACATION TIME -- ELIGIBILITY -- MAXIMUM TIME -- RIGHT TO ANNUAL VACATION. (1) An appointing authority shall permit each officer or employee to take vacation leave to the extent such leave has accrued.

(2) Vacation leave may be accrued and accumulated only as follows, unless amounts in excess of the permitted accumulations have been expressly authorized in writing by the board of examiners during unusual or emergency situations:

During the first ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of one hundred ninety-two (192) hours;

During the second ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of two hundred forty (240) hours;

During the third ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of two hundred eighty-eight (288) hours;

After thirty-one thousand two hundred (31,200) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of three hundred thirty-six (336) hours.

(3) Vacation leave shall be transferable from department to department only to the extent that it is accrued and accumulated.

(4) Vacation leave shall not be earned, accrued or accumulated during any pay period in which the maximum accruals and accumulations provided by this section have been met.

(5) Vacation leave not taken shall be compensated for at the time of separation only to the maximum accruals and accumulations allowed by this section.

(6) Vacation leave shall be taken on a workday basis. Regularly scheduled days off and officially designated holidays falling within a period of vacation leave shall not be counted against vacation leave. Vacation leave shall not be taken in advance of being earned and shall only be taken in pay periods subsequent to being earned.

(7) With the approval of the appointing authority for both the transferring and receiving officer or employee, an officer or employee may transfer accrued vacation leave, up to a maximum of forty (40) hours per fiscal year, to another officer or employee for purposes of sick leave in the event the receiving officer or employee or a family member suffers from a serious illness or injury. The amount trans-

ferred shall be converted to sick leave. An officer or employee shall not be allowed to receive more than one hundred sixty (160) hours of transferred leave per fiscal year, and a transfer shall not occur until the receiving employee has exhausted all of his or her accrued sick and vacation leave. An officer or employee shall not be eligible to transfer vacation leave unless his or her balance exceeds eighty (80) hours, and in no event may an officer or employee transfer an amount of accrued leave which would result in an accrued balance of less than eighty (80) hours.

Approved March 20, 1998.

CHAPTER 235
(H.B. No. 632)

AN ACT

RELATING TO PARTIES TO ACTIONS; AMENDING SECTION 10-1211, IDAHO CODE, TO PROVIDE CIRCUMSTANCES WHEN THE ATTORNEY GENERAL OF THE STATE SHALL BE SERVED AND BE ENTITLED TO BE HEARD AND MAY INTERVENE IN CERTAIN CASES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 10-1211, Idaho Code, be, and the same is hereby amended to read as follows:

10-1211. PARTIES TO ACTION -- MUNICIPAL ORDER OR FRANCHISE. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be unconstitutional, the ~~A~~attorney ~~G~~general of the state shall also be served, and be entitled to be heard and may intervene.

Approved March 20, 1998.

CHAPTER 236
(H.B. No. 617)

AN ACT

RELATING TO THE ASSISTIVE TECHNOLOGY WARRANTY ACT; AMENDING SECTION 48-1402, IDAHO CODE, TO LIMIT THE ITEMS WHICH ARE EXEMPT FROM THE APPLICATION OF THE ACT.

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

SECTION 1. That Section 48-1402, Idaho Code, be, and the same is hereby amended to read as follows:

48-1402. DEFINITIONS. As used in this chapter:

(1) "Assistive device" is an item, piece of equipment, or product system that is designated and used to increase, maintain or improve functional capabilities of individuals with disabilities in the areas of seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for oneself or working. The term includes, but is not limited to: manual wheelchairs, motorized wheelchairs, motorized scooters, and other aids that enhance the mobility of an individual; hearing aids, assistive listening devices and other aids that enhance an individual's ability to hear or communicate; voice synthesized computer modules, optical scanners, talking software, braille printers, large print materials and other devices that enhance an individual's ability to access print or communicate; and other devices such as environmental controls, adaptive transportation aids, communication boards and modified environments. "Assistive device" does not include: (a) a transcutaneous electrical nerve stimulator, neuromuscular electrical stimulator, or dynamic range of motion splint, if the stimulator or splint is already covered by a warranty; (b) a hearing aid covered by a one (1) year express warranty to repair or replace a device with a nonconformity; and (c) items ~~typically sold on a nonprescription basis~~ including~~, but not limited to, upper and lower extremity prosthetics and related orthotics,~~ canes, crutches, walkers, bathroom safety aids, batteries, blood pressure kits, glucose monitors, bandages, household aids, wraps and other disposable items.

(2) "Assistive device dealer" means a person who is in the business of selling new assistive devices.

(3) "Assistive device lessor" means a person who leases new assistive devices to consumers, or who holds the lessor's rights, under a written lease.

(4) "Collateral costs" means expenses incurred by a consumer in connection with the repair of a nonconformity, including the cost of sales tax and of obtaining an alternative assistive device.

(5) "Consumer" or "agency" means any of the following:

(a) The purchaser of an assistive device, if the assistive device was purchased from an assistive dealer or manufacturer for purposes other than resale;

(b) A person to whom the assistive device is transferred for purposes other than resale, if the transfer occurs before the expiration of an express warranty applicable to the assistive device;

(c) A person who may enforce the warranty; or

(d) A person who leases an assistive device from an assistive device lessor under a written lease.

(6) "Demonstrator" means an assistive device used primarily for the purpose of demonstration to the public.

(7) "Early termination cost" means an expense or obligation that an assistive device lessor incurs as a result of both the termination of a written lease before the termination date set forth in that lease and the return of an assistive device to the manufacturer. The term incurs a penalty for prepayment under a finance arrangement.

(8) "Early termination savings" means an expense or obligation

that an assistive device lessor avoids as a result of both the termination of a written lease before the termination date set forth in that lease and the return of an assistive device to the manufacturer. The term includes an interest charge that the assistive device lessor would have paid to finance the assistive device or, if the assistive device lessor does not finance the assistive device, the difference between the total period of the lease term remaining after the early termination and the present value of that amount at the date of the early termination.

(9) "Manufacturer" means a person who manufactures or assembles assistive devices and agents of that person, including an importer, a distributor, a factory branch, and a warrantor of the manufacturer's assistive device. The term does not include an assistive device dealer or lessor.

(10) "Nonconformity" means a specific condition or generic defect or malfunction, or a defect or condition that substantially impairs the use, value or safety of an assistive device, but does not include a condition or defect that is the result of abuse or unauthorized modification or alteration of the assistive device by the consumer.

(11) "Reasonable attempt to repair" means any of the following occurring within the term of an express warranty applicable to a new assistive device:

(a) The manufacturer, assistive device lessor, or any of the manufacturer's authorized assistive device dealers accepts returns of the new assistive device for repair at least two (2) times; or

(b) The assistive device is out of service for an aggregate of at least thirty (30) cumulative days because of warranty nonconformities.

Approved March 20, 1998.

CHAPTER 237
(H.B. No. 608)

AN ACT

RELATING TO THE MANUFACTURED HOME SETUP CODE; AMENDING SECTION 44-2201, IDAHO CODE, TO AUTHORIZE THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY TO PROMULGATE RULES PROVIDING FOR VARIANCES FROM CERTAIN PROVISIONS OF THE SETUP CODE OR PROVIDING FOR STANDARDIZED INSTALLATION INSTRUCTIONS FOR MANUFACTURERS, OR BOTH, AND TO PROVIDE THAT, UPON THE EFFECTIVE DATE OF SUCH RULES, THE RULES SHALL PREVAIL.

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

SECTION 1. That Section 44-2201, Idaho Code, be, and the same is hereby amended to read as follows:

44-2201. MOBILE/MANUFACTURED HOMES INSTALLATION. (1) All mobile/manufactured homes must be installed in accordance with the manufacturer's instructions or where the manufacturer's instructions

are not readily available from the manufacturer, the mobile/manufactured home must be installed in accordance with the provisions of this chapter. All mobile/manufactured homes must be installed in accordance with all other applicable state laws pertaining to utility connection requirements. If the home is installed in accordance with the manufacturer's specifications, a copy of those specifications shall be in the home at the time of setup and inspection. If the home is installed in accordance with the provisions of this chapter, then a copy of the state setup requirements shall be included with the home. All dimensions required by the provisions of this chapter are considered to be nominal.

(2) The administrator of the division of building safety may promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, providing for variances from the installation requirements specified in sections 44-2204 and 44-2205, Idaho Code, or specifying standardized installation instructions for manufacturers, or both. Upon the effective date of such rules, the rules shall prevail over any conflicting provisions in this chapter.

(3) The homeowner or park owner must ensure that the ground on which a mobile/manufactured home is to be installed has been improved as necessary to provide a proper base for the unit and that the area beneath it has adequate drainage.

Approved March 20, 1998.

CHAPTER 238
(H.B. No. 599, As Amended)

AN ACT

RELATING TO PERSONAL CARE SERVICES; AMENDING CHAPTER 13, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1301a, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND WELFARE MAY GRANT WAIVERS TO PERSONAL CARE SERVICES HOMES FROM CERTAIN PROVISIONS OF SECTION 39-1301, IDAHO CODE, UNDER SPECIFIED CIRCUMSTANCES; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 13, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-1301a, Idaho Code, and to read as follows:

39-1301a. WAIVERS FOR PERSONAL CARE SERVICES HOMES FROM NURSING FACILITY AND INTERMEDIATE CARE FACILITY DEFINITIONS. The Idaho department of health and welfare shall have the authority to grant personal care services homes that have been approved pursuant to IDAPA 16.03.09.146.06.f.ix, a waiver from sections 39-1301(b) and (c) (1), Idaho Code, to permit no more than two (2) persons, both of whom meet the level of care defined in those sections, to reside in the same personal care services home, regardless of payor source. Before grant-

ing a waiver under this section, the department shall require, when feasible, written statements from each of the two (2) persons or their legal representatives evidencing their desire to reside in the same personal care services home.

The department shall revoke any waiver granted pursuant to this section where it is determined there is a threat to the life or safety of either person or where one (1) of the persons leaves the personal care services home permanently or notifies the department in writing that they do not wish to reside in the personal care services home with the other individual. Any waiver granted under this section shall be reviewed annually.

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

Approved March 20, 1998.

CHAPTER 239
(H.B. No. 587)

AN ACT

RELATING TO STATE DEPOSITORIES; AMENDING SECTION 67-2739, IDAHO CODE, TO PROVIDE THAT AFFIDAVITS OF CAPITAL STOCK AND SURPLUS REQUIRED TO BE FILED BY A BANKING CORPORATION OR NATIONAL BANKING ASSOCIATION DESIGNATED AS A STATE DEPOSITORY SHALL BE VALID FOR ONE YEAR AND TO AUTHORIZE THE STATE TREASURER TO DESIGNATE THE DATE BY WHICH AFFIDAVITS SHALL BE FILED.

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

SECTION 1. That Section 67-2739, Idaho Code, be, and the same is hereby amended to read as follows:

67-2739. DESIGNATION OF DEPOSITORY -- REPORTING OF CAPITAL AND SURPLUS. (1) The state treasurer shall designate institutions qualified under this chapter as a state depository or depositories. Such designation shall be determined by competitive bidding or by other means generally accepted as standard business practice. In no case shall the deposit or deposits of state funds in any state depository above the total covered by federal insurance exceed at any one time, in the aggregate, the total of the capital and surplus of such state depository. In the event that any bank has been designated as a depository under this chapter, such designation shall continue in force until revoked by the treasurer.

(2) Every banking corporation or national banking association designated as a state depository and holding any deposit of the funds of the state of Idaho under the provisions of this section shall, on or before beginning to hold such deposits or the effective date of this act, whichever shall be sooner, file with the state treasurer, the affidavit of one of its officers showing the amount of the capital

stock and surplus of such association or corporation. In the event that such corporation or association has such an affidavit on file with the state treasurer on the effective date of this act, such affidavit or affidavits shall satisfy the requirement of this section until January 31 of the year next following the effective date of this act. ~~Such a~~Affidavits shall be effective for the purposes of this section ~~to--and--including--January-31-next~~ for a period of one (1) year following the date of their filing.~~,-but-no-longer,-and,-on-or--before that--date,--i~~If such corporation or association is to continue as a designated state depository under this section, a like affidavit shall be filed in like manner for the succeeding year, on or before the date specified by the state treasurer. No such corporation or national banking association shall receive deposits from nor act as depository for the funds of the state of Idaho unless and until an affidavit as is herein required and which still continues in effect is on file with the state treasurer in accordance with this section.

(3) The state treasurer is authorized in his or her discretion and from time to time to negotiate for the payment to designated state depositories of reasonable compensation for services rendered in acting as such depositories. The method and/or rate of such compensation and the terms and conditions thereof shall be fixed by the state treasurer after such negotiation, which may include the calling for bids for specific services. All bids received, whether by a formal bidding process or by negotiation, and the compensation fixed by the treasurer, which shall be in the form of a written agreement, shall be a matter of public record.

Approved March 20, 1998.

CHAPTER 240
(H.B. No. 574)

AN ACT

RELATING TO MUNICIPAL ELECTIONS; AMENDING SECTION 50-409, IDAHO CODE, TO PROVIDE THAT ELECTION OFFICIALS SHALL BE QUALIFIED CITY OR COUNTY ELECTORS; REPEALING SECTION 50-425, IDAHO CODE; AMENDING SECTION 50-432, IDAHO CODE, TO PROVIDE A STATUTORY REFERENCE FOR GOVERNANCE OF WRITE-IN CANDIDATES; REPEALING SECTION 50-444, IDAHO CODE; AMENDING SECTION 50-445, IDAHO CODE, TO PROVIDE FOR DELIVERY OF ABSENTEE BALLOTS AND TO STRIKE INFORMATION REFERRING TO REPEALED SECTION 50-444, IDAHO CODE; AND AMENDING SECTION 50-453, IDAHO CODE, TO PROVIDE THAT POLLS SHALL REMAIN OPEN UNTIL EIGHT P.M. ON THE DAY THEY ARE OPENED.

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

SECTION 1. That Section 50-409, Idaho Code, be, and the same is hereby amended to read as follows:

50-409. APPOINTMENT AND COMPENSATION OF ELECTION JUDGES AND CLERKS. The city council in each city, at a regular meeting in the

month preceding an election, shall appoint an election judge and such clerks as may be necessary for each voting precinct within the city. The election officials shall be qualified city or county electors. The city clerk shall notify the election officials of their appointment within five (5) days following appointment. If any election judge or clerk fails to report for duty on the day of election the city clerk shall fill such vacancies from among the qualified electors presenting themselves to vote. Compensation for the election judges and clerks shall be determined by the city council at time of appointment and shall be not less than the minimum wage as prescribed by federal law.

SECTION 2. That Section 50-425, Idaho Code, be, and the same is hereby repealed.

SECTION 3. 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 sixty (60) or less than forty (40) 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. Write-in candidates shall be governed by section 34-702A, Idaho Code, but shall file the declarations required in that section with the city clerk.

SECTION 4. That Section 50-444, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 50-445, Idaho Code, be, and the same is hereby amended to read as follows:

50-445. ISSUANCE OF ABSENTEE BALLOT. Upon receipt of an application for an absent elector's ballot within the proper time, the city clerk receiving it shall examine the records of his office to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested, and, if found to be so, he shall arrange for the applicant to vote by absent elector's ballot. ~~in the following manner:~~

~~(1)--If-the-applicant-is-classed-under--section--50-444(1),--Idaho Code,--the-clerk-shall-deliver-to-the-applicant-by-mail-to-the-mailing address-given-in-the-application,-or-if-by-facsimile--machine--to--the facsimile--address--given--in--the--application,--an--official--absent elector's--ballot,--a-return-envelope-with-the-affidavit-thereon-properly-filled-in-as-to-precinct-and-residence-address-as--shown--by--the records--in-his-office,-and-an-instruction-card.-In-cases-of-facsimile transmission,-special-instructions-regarding-return-envelope,--affidavits--and--other-instructions-shall-also-be-included-with-transmission of-the-ballot.~~

~~(2)--If-the-applicant-is-classed-under--section--50-444(5),--Idaho Code,--and--if--the--applicant--in-the-United-States-service-submits-a properly-executed-federal-postcard--application--and--the--city--clerk receiving--it-shall-determine-that-such-applicant-is-not-properly-registered,-the-city-clerk-shall-cause-the-applicant-to-be-registered-and shall-then-deliver-to-the-applicant-the-official-elector's-ballot--and other-materials-as-above-set-forth.~~

~~(3)--If--the--applicant--is-classed-under-section-50-444(3),-Idaho Code,-the-city-clerk-shall-forthwith--notify--the--applicant--that--he shall--appear--personally--and--vote--at--the-"absent-elector's-voting place"-in-the-city-hall-during-the-time-prescribed.~~

~~(4)--In-the-case-of-applicants-classified-under-section--50-444(1) or--(2),--Idaho--Code,-the-absent-elector's-ballot-and-other-materials shall-be-delivered-or-mailed-or--sent--by--facsimile--machine--to--the absent--elector-within-forty-eight-(48)-hours-after-the-receipt-of-the application,-if-the-official-ballots-are-then-printed,-or,-if-not-then printed,-within-forty-eight-(48)--hours--after--such--printed--ballots shall-be-delivered-to-the-city-clerk.~~

~~(5)--If--the--applicant--is-classed-under-section-50-444(4),-Idaho Code,-the-city-clerk-shall-forthwith-notify-the-applicant--by--setting forth--the--time--and--place-at-which-the-city-clerk-shall-deliver-the absentee-ballot~~ The absentee ballot may be delivered to the absent elector in the office of the city clerk, by postage prepaid mail or by other appropriate means.

~~(6)~~ An elector physically unable to mark his own ballot may receive assistance in marking such ballot from the officer delivering same or an available person of his own choosing. In the event the election officer is requested to render assistance in marking an absent elector's ballot, the officer shall ascertain the desires of the elector and shall vote the applicant's ballot accordingly. ~~When such--ballot--is--marked-by-an-election-officer,-the-witnesses-on-hand shall-be-allowed-to-observe-such-marking.~~ No city clerk, deputy, or other person assisting a disabled voter shall attempt to influence the vote of such elector in any manner.

SECTION 6. That Section 50-453, Idaho Code, be, and the same is hereby amended to read as follows:

50-453. OPENING AND CLOSING POLLS. (1) As provided by ordinance at all general and special city elections the polls shall be opened at either 8:00 a.m. or 12:00 noon and remain open until ~~all-registered electors-of-that-precinct-have-voted-or-until~~ 8:00 p.m. of the same day~~,-whichever-comes-first.~~

(2) Upon opening the polls the precinct judge will make the proclamation of the same and thirty (30) minutes before closing the polls a proclamation shall be made in the same manner. Any elector who is in line at 8:00 p.m. shall be allowed to vote, notwithstanding the pronouncement that the polls are closed.

Approved March 20, 1998.

CHAPTER 241
(H.B. No. 552)

AN ACT

RELATING TO THE IDAHO CANOLA AND RAPESEED COMMISSION; AMENDING SECTION 22-4717, IDAHO CODE, TO PROVIDE THAT THE BALANCE IN THE ESCROW ACCOUNT AFTER CLAIMS HAVE BEEN MET SHALL BE TRANSFERRED ANNUALLY FOR USE BY THE COMMISSION; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 22-4717, Idaho Code, be, and the same is hereby amended to read as follows:

22-4717. ASSESSMENT REFUNDS -- ESCROW ACCOUNT. (1) During the period beginning on July 1, 1996, and ending on the date on which a referendum is conducted pursuant to section 22-4718, Idaho Code, the commission shall establish an escrow account to be used for refunds of assessments collected pursuant to section 22-4716, Idaho Code, and shall place an amount equal to ten percent (10%) of the total amounts collected in the escrow account. At the conclusion of each fiscal year, any balance in the escrow account after paying refund claims shall be transferred to one (1) or more of the accounts established by the commission pursuant to section 22-4720, Idaho Code.

(2) The commission shall refund to a seller the assessments paid by or on behalf of the seller if the seller is required to pay the assessments, the seller does not support the program established under this act, and the seller demands the refund prior to the ~~performance of the referendum described in this act~~ time prescribed by the commission in rules of the commission.

(3) The refund demand shall be made in accordance with rules, in the form, and within the time period prescribed by the commission.

(4) The refund shall be made on submission of proof satisfactory to the commission that the seller paid the assessments described in section 22-4716, Idaho Code, and for which the refund is demanded.

(5) If the amount in the escrow account is not sufficient to refund the total amount of assessments demanded by eligible sellers and the commission is not approved to continue pursuant to the referendum conducted pursuant to this act, the commission shall prorate the amount of the refunds among all eligible sellers who demand a refund.

(6) If the operation of the commission is approved in the referendum conducted pursuant to this act, all funds remaining in the

escrow account shall be returned to the commission for its use in accordance with this act.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1998.

Approved March 20, 1998.

CHAPTER 242
(H.B. No. 547)

AN ACT

RELATING TO LOBBYIST REGISTRATION; AMENDING SECTION 67-6618, IDAHO CODE, TO EXEMPT FROM REGISTRATION PERSONS WHO ARE COMPENSATED LESS THAN TWO HUNDRED FIFTY DOLLARS PER CALENDAR QUARTER.

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

SECTION 1. That Section 67-6618, Idaho Code, be, and the same is hereby amended to read as follows:

67-6618. EXEMPTION FROM REGISTRATION. The following persons and activities shall be exempt from registration and reporting under sections 67-6617 and 67-6619, Idaho Code:

(a) Persons who limit their lobbying activities to appearances before public sessions of committees of the legislature.

(b) Persons who are employees of an entity engaged in the business of publishing, broadcasting or televising, while engaged in the gathering and dissemination of news and comment thereon to the general public in the ordinary course of business.

(c) Persons who do not receive any compensation for lobbying and persons whose compensation for lobbying does not exceed ~~one~~ two hundred fifty dollars ($~~100~~250) in the aggregate during any calendar quarter, including persons who lobby on behalf of their employer or employers, and the lobbying activity represents less than the equivalent of ~~one~~ two hundred fifty dollars ($~~100~~250) of the employee's time per calendar year quarter, based on an hourly proration of said employee's compensation.

(d) Elected state officers and state executive officers appointed by the governor subject to confirmation by the senate; elected officials of political subdivisions of the state of Idaho, acting in their official capacity.

(e) A person who represents a bona fide church (of which he is a member) solely for the purpose of protecting the constitutional right to the free exercise of religion.

(f) (1) Employees of a corporation, if such corporation:

(a) Has registered as a lobbyist pursuant to chapter 66, title 67, Idaho Code, and

(b) Has designated one or more of its employees as its official

lobbyist, and

(c) The person so designated by the corporation has also registered as a lobbyist.

(2) The corporation and the lobbyist designated pursuant to this subsection shall fully and accurately report all expenditures made by employees who are exempt hereunder, in the manner and at the times required by section 67-6618, Idaho Code, and, in addition thereto, shall report the names of all employees who make or authorize expenditures in the aggregate sum of fifty dollars ($50.00) or more during any calendar year on behalf of the corporate lobbying activities.

Approved March 20, 1998.

CHAPTER 243
(H.B. No. 540)

AN ACT

RELATING TO WRITS OF EXECUTION; AMENDING SECTION 8-506, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 8-506, Idaho Code, be, and the same is hereby amended to read as follows:

8-506. EXECUTION OF WRIT. The sheriff to whom the writ is directed and delivered must execute the same without delay, and if the undertaking mentioned in section 8-506C, Idaho Code, be not given, as follows:

1. Real property standing upon the records of the county in the name of the defendant must be attached by filing with the recorder of the county a copy of the writ, together with a description of the property attached and a notice that it is attached.

2. Real property or an interest therein belonging to the defendant and held by any other person, or standing on the records of the county in the name of any other person, must be attached by filing with the recorder of the county a copy of the writ, together with a description of the property, and a notice that such real property and any interest of the defendant therein, held by or standing in the name of such other person (naming him), are attached. The recorder must index such attachment, when filed, in the names of both, of the defendant and of the person by whom the property is held or in whose name it stands on the records.

3. Personal property capable of manual delivery must be attached by taking it into custody.

4. Stock or shares, or interest in stock or shares, of any corporation or company must be attached by leaving with the president or other head of the same, or the secretary, cashier or other managing agent thereof, a copy of the writ and a notice stating that the stock or interest of the defendant is attached, in pursuance of such writ; provided, that securities as defined in section 28-8-102, Idaho Code,

must be attached as provided in section 28-8-~~317~~112, Idaho Code.

5. Debts and credits and other personal property not capable of manual delivery must be attached by leaving with the person owing such debts, or having in his possession or under his control such credits or other personal property, or with his agent, a copy of the writ, and a notice that the debts owing by him to the defendant, or the credits or other personal property in his possession or under his control, belonging to the defendants, are attached in pursuance of such writ.

Approved March 20, 1998.

CHAPTER 244
(H.B. No. 509)

AN ACT

RELATING TO SCHOOL DISTRICT BOUNDARIES; AMENDING SECTION 33-307, IDAHO CODE, TO PLACE A TIME LIMIT WITHIN WHICH A BOARD OF COUNTY COMMISSIONERS SHALL CORRECT A LEGAL DESCRIPTION OF A SCHOOL DISTRICT'S BOUNDARIES, TO PROVIDE THAT THE STATE TAX COMMISSION SHALL RECEIVE NOTICE OF SUCH CHANGE, TO PROVIDE AN EFFECTIVE DATE FOR THE CHANGE IN BOUNDARIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-308, IDAHO CODE, TO CLARIFY THE PROCEDURE FOR EXCISING AND ANNEXING TERRITORY FROM ONE SCHOOL DISTRICT TO ANOTHER, TO REVISE THE INFORMATION PROVIDED IN THE PETITION, TO PLACE TIME LIMITS ON THE TRANSMITTAL OF THE PETITION TO THE STATE BOARD OF EDUCATION, TO PROVIDE FOR AN ELECTION BY THE SCHOOL DISTRICT ELECTORS RESIDING IN THE AREA DESCRIBED IN THE PETITION, TO PROVIDE FOR AN ORDER FOR BOUNDARY CHANGES BY THE STATE BOARD OF EDUCATION AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-307, Idaho Code, be, and the same is hereby amended to read as follows:

33-307. CORRECTING OR ALTERING SCHOOL DISTRICT BOUNDARIES. (1) Whenever the state board of education shall find that, because of error in the legal description of the boundaries of any school district, or for any other reason,

(a~~.~~) any part of the area of the state is not included within the area of a school district, or

(b~~.~~) is included in more than one (1) school district, or

(c~~.~~) that any area of less than fifty (50) square miles in which no school is operated should be excised from the school district in which it lies and annexed to a contiguous school district when the interests of the school children residing in each of the affected districts of such areas will be served thereby,

the said state board of education shall make an appropriate order including an omitted area into any school district, or districts, or correcting or altering the boundaries of the districts, in such manner as, in its judgment, is just and proper.

(2) A copy of any such order shall be sent by the state board of education to the board of trustees of any school district affected by the order, and to the board of county commissioners of any county in which any such district, or part thereof, shall lie. Within thirty (30) days of receipt of the order, t~~T~~he board of county commissioners shall ~~thereupon~~ correct the legal description of the school district or districts, as the same may appear in its records, and immediately thereafter shall notify the state board of education that the county records have been corrected in accordance with the order of the said state board of education. The state tax commission shall also be notified in accordance with the provisions of section 63-215, Idaho Code. The proposal shall become effective at the same time the state board of education and the state tax commission have been notified by the county commissioners that the county records have been corrected as ordered.

SECTION 2. That Section 33-308, Idaho Code, be, and the same is hereby amended to read as follows:

33-308. EXCISION AND ANNEXATION OF TERRITORY. (1) ~~Ten--(10)~~ A board of trustees of any school district including a specially chartered school district, or one-fourth (1/4) or more of the school district electors, residing in an area of not ~~less~~ more than ~~ten~~ fifty (~~1~~50) square miles within which there is no schoolhouse or facility necessary for the operation of a school district, may petition in writing proposing the annexation of the area to another and contiguous school district.

(2) Such petition shall be in duplicate, one (1) copy of which shall be presented to the board of trustees of the district from which the area is proposed to be excised, and the other to the board of trustees of the district to which the area is proposed to be annexed. The petition shall contain:

~~1.~~(a) The names and addresses of the petitioners;

~~2.~~(b) A legal description of the area proposed to be excised from one district and annexed to another contiguous district;

~~3.~~(c) Maps showing the boundaries of the districts as they presently appear and as they would appear should the excision and annexation be approved;

~~4.~~(d) The names of the school districts from and to which the area is proposed to be excised, and annexed;

~~5.--The amount of the unpaid bonded debt of each such district;~~

~~6.--The total assessed value of all taxable property in each--such district; and~~

~~7.--The--total--assessed value of all taxable property in the area described in the petition~~

(e) A description of reasons for which the petition is being submitted; and

(f) An estimate of the number of children residing in the area described in the petition.

(3) The board of trustees of each school district, no later than ten (10) days after its first regular meeting held subsequent to receipt of the petition, shall transmit the petition, with recommendations, to the state board of education.

(4) The state board of education ~~may~~ shall approve ~~or disapprove~~ the proposal~~, but if~~ provided:

(a) The excision and annexation is in the best interests of the children residing in the area described in the petition; and

(b) The excision of the territory, as proposed, would not leave a school district with a bonded debt in excess of the limit then prescribed by law~~;~~.

If either condition is not met, the state board ~~must~~ shall disapprove the proposal. The approval or disapproval shall be expressed in writing to the board of trustees of each school district named in the petition.

(5) If the state board of education shall approve the proposal, it shall be submitted to the school district electors ~~of each school district, and of~~ residing in the area described in the petition, at an election held in the manner provided ~~by sections 33-401 - 33-406~~ in chapter 4, title 33, Idaho Code. Such election shall be held within sixty (60) days after the state board approves the proposal.

(6) At the ~~same time of~~ election there shall be submitted to the electors having the qualifications of electors in a school district bond election and residing in the area proposed to be annexed~~,~~:

(a) The question of whether the area described in the petition shall be excised from school district no. ( ) and annexed to contiguous school district no. ( ); and

(b) T~~t~~he question of assumption of the appropriate proportion of any bonded debt, and the interest thereon, of the proposed annexing school district~~, which proportion shall be the ratio of assessed value of taxable property in the said area to the aggregate assessed value of taxable property in the said area and in the proposed annexing district~~.

(7) If a majority of the school district electors in ~~each of the two (2) districts and in~~ the area described in the petition, voting in the election, shall vote in favor of the proposal to excise and annex the said area, and if in the area the electors voting on the question of the assumption of bonded debt and interest have approved such assumption by the ~~majority~~ proportion of votes cast as is ~~now, or hereafter may be,~~ required by section 3, article VIII, of the ~~C~~constitution of the state of Idaho, the proposal shall carry and be approved. Otherwise, it shall fail.

(8) If the proposal shall be approved by the electors in the manner prescribed, ~~it shall become effective as of the beginning of the school year next following the election at which it was approved~~ the state board of education shall make an appropriate order for the boundaries of the affected school districts to be altered; and the legal descriptions of the school districts shall be corrected as prescribed in section 33-307(2), Idaho Code.

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

Approved March 20, 1998.

CHAPTER 245
(H.B. No. 482)

AN ACT

RELATING TO THE DUTIES OF THE ATTORNEY GENERAL; AMENDING SECTION 67-1401, IDAHO CODE, TO ELIMINATE THE DUTY OF THE ATTORNEY GENERAL TO SUPERVISE PROSECUTING ATTORNEYS.

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

SECTION 1. That Section 67-1401, Idaho Code, be, and the same is hereby amended to read as follows:

67-1401. DUTIES OF ATTORNEY GENERAL. Except as otherwise provided in this chapter, it is the duty of the attorney general:

1. To perform all legal services for the state and to represent the state and all departments, agencies, offices, officers, boards, commissions, institutions and other state entities, in all courts and before all administrative tribunals or bodies of any nature. Provided however, that such representation shall be for the legislative, and judicial branches, the governor, those state entities within the department of self-governing agencies, colleges and universities, only upon request. Whenever required to attend upon any court or administrative tribunal the attorney general shall be allowed necessary and actual expenses, all claims for which shall be audited by the state board of examiners.

2. To advise all departments, agencies, offices, officers, boards, commissions, institutions and other state entities in all matters involving questions of law.

3. After judgment in any of the causes referred to in the first subdivision, to direct the issuing of such process as may be necessary to carry the same into execution.

4. To account for and pay over to the proper officer all moneys received which belong to the state.

5. To supervise nonprofit corporations, corporations, charitable or benevolent societies, person or persons holding property subject to any public or charitable trust and to enforce whenever necessary any noncompliance or departure from the general purpose of such trust and, in order to accomplish such purpose, said nonprofit corporations, corporations, charitable or benevolent societies, person or persons holding property subject to any public or charitable trust are subject at all times to examination by the attorney general, on behalf of the state, to ascertain the condition of its affairs and to what extent, if at all, said trustee or trustees may have failed to comply with trusts said trustee or trustees have assumed or may have departed from the general purpose for which it was formed. In case of any such failure or departure, the attorney general shall institute, in the name of the state, any proceeding necessary to enforce compliance with the terms of the trust or any departure therefrom.

6. ~~To--exercise--supervisory-powers-over-prosecuting-attorneys-in all-matters-pertaining-to-the-duties-of-their-offices,-and--from--time to-time-require-of-them-reports-as-to-the-condition-of-public-business~~

~~entrusted to their charge.~~

~~7.~~ To give an opinion in writing, without fee, to the legislature or either house thereof, or any senator or representative, and to the governor, secretary of state, treasurer, state controller, and the trustees or commissioners of state institutions, when required, upon any question of law relating to their respective offices. The attorney general shall keep a record of all written opinions rendered by the office and such opinions shall be compiled annually and made available for public inspection. All costs incurred in the preparation of said opinions shall be borne by the office of the attorney general. A copy of the opinions shall be furnished to the supreme court and to the state librarian.

~~8~~7. When required by the public service, to repair to any county in the state and assist the prosecuting attorney thereof in the discharge of duties.

~~9~~8. To bid upon and purchase, when necessary, in the name of the state, and under the direction of the state controller, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and to enter satisfaction in whole or in part of such judgments as the consideration for such purchases.

~~10~~9. Whenever the property of a judgment debtor in any judgment mentioned in the preceding subdivision has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance, taking precedence of the judgment in favor of the state, under the direction of the state controller, to redeem such property from such prior judgment, lien, or encumbrance; and all sums of money necessary for such redemption must, upon the order of the board of examiners, be paid out of any money appropriated for such purposes.

~~11~~10. When necessary for the collection or enforcement of any judgment hereinbefore mentioned, to institute and prosecute, in behalf of the state, such suits or other proceedings as may be necessary to set aside and annul all conveyances fraudulently made by such judgment debtors; the cost necessary to the prosecution must, when allowed by the board of examiners, be paid out of any appropriations for the prosecution of delinquents.

~~12~~11. To exercise all the common law power and authority usually appertaining to the office and to discharge the other duties prescribed by law.

~~13~~12. To report to the governor, at the time required by this code, the condition of the affairs of the attorney general's office and of the reports received from prosecuting attorneys.

~~14~~13. To appoint deputy attorneys general and special deputy attorneys general and other necessary staff to assist in the performance of the duties of the office. Such deputies and staff shall be nonclassified employees within the meaning of section 67-5302, Idaho Code.

Approved March 20, 1998.

CHAPTER 246
(H.B. No. 481)

AN ACT

RELATING TO THE ENFORCEMENT OF PENAL LAWS; AMENDING SECTION 31-2227, IDAHO CODE, TO PROVIDE THAT THE ATTORNEY GENERAL SHALL EXERCISE THE DUTIES, RIGHTS AND RESPONSIBILITIES OF THE PROSECUTING ATTORNEY IN THE EVENT THAT THE GOVERNOR DETERMINES THAT THE PENAL LAWS OF THE STATE ARE NOT BEING ENFORCED IN A COUNTY AND DIRECTS THE DEPARTMENT OF LAW ENFORCEMENT TO EXECUTE AND ENFORCE SUCH PENAL LAWS.

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

SECTION 1. That Section 31-2227, Idaho Code, be, and the same is hereby amended to read as follows:

31-2227. ENFORCEMENT OF PENAL LAWS -- PRIMARY RESPONSIBILITY. Irrespective of police powers vested by statute in state, county, and municipal officers, it is hereby declared to be the policy of the state of Idaho that the primary duty of enforcing all the penal provisions of any and all statutes of this state, in any court, is vested in the sheriff and prosecuting attorney of each of the several counties. When in the judgment of such county officers, they need assistance from municipal peace officers within the county, they are authorized and directed to call for such and such local officers shall render such assistance.

When in the judgment of such county officers, advice and/or assistance is needed which is not available in the county, the sheriff and/or the prosecuting attorney are directed to call upon the state department of law enforcement for such advice and assistance and the department shall render such cooperative service. Whenever in the opinion of the governor any peace officer of this state refuses to offer assistance when requested to do so, or refuses to perform any duty enjoined upon him by the penal statutes of this state, the governor shall direct the attorney general to commence action under chapter 41, title 19, Idaho Code, to remove such officer from office.

When in the judgment of the governor the penal laws of this state are not being enforced as written, in any county, or counties, in this state, he may direct the director of the department of law enforcement to act independently of the sheriff and prosecuting attorney in such county, or counties, to execute and enforce such penal laws. <u>In such an instance, the attorney general shall exclusively exercise all duties, rights and responsibilities of the prosecuting attorney.</u>

Approved March 20, 1998.

CHAPTER 247
(H.B. No. 458)

AN ACT

RELATING TO THE DUTIES OF THE STATE FIRE MARSHAL; REPEALING SECTION 41-267, IDAHO CODE.

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

SECTION 1. That Section 41-267, Idaho Code, be, and the same is hereby repealed.

Approved March 20, 1998.

CHAPTER 248
(H.B. No. 431)

AN ACT

RELATING TO CHILD SUPPORT ENFORCEMENT; AMENDING SECTION 32-403, IDAHO CODE, TO PROVIDE FOR SOCIAL SECURITY NUMBERS ON MARRIAGE LICENSE APPLICATIONS; AMENDING SECTION 49-306, IDAHO CODE, TO PROVIDE FOR SOCIAL SECURITY NUMBERS ON DRIVER LICENSE APPLICATIONS; AMENDING SECTION 49-2443, IDAHO CODE, TO PROVIDE FOR SOCIAL SECURITY NUMBERS ON IDENTIFICATION CARDS; AND AMENDING CHAPTER 1, TITLE 73, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 73-122, IDAHO CODE, TO PROVIDE FOR SOCIAL SECURITY NUMBERS ON APPLICATIONS FOR PROFESSIONAL, OCCUPATIONAL AND RECREATIONAL LICENSES.

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

SECTION 1. That Section 32-403, Idaho Code, be, and the same is hereby amended to read as follows:

32-403. APPLICATION FOR AND ISSUANCE OF LICENSE. (1) Every county recorder who shall have personal knowledge of the competency of the parties for whose marriage a license is applied for, shall issue such license upon payment or tender to him of his legal fee therefor; and if such recorder does not know of his own knowledge that the parties are competent under the laws of the state to contract matrimony, he shall take the affidavit in writing of the person or persons applying for such license, and of other persons as he may see proper, and of any persons whose testimony may be offered; and if it appears from the affidavit so taken that the parties for whose marriage the license in question is demanded are legally competent to marry, the recorder shall issue such license, and the affidavits so taken shall be his warrant against any fine or forfeiture for issuing such license. Provided, however, that in the event either of the parties for whose marriage the license in question is applied for is under the age of eighteen (18) years, the recorder shall not issue such license except upon compliance with the consent and proof of age requirements set forth in

section 32-202, Idaho Code.

(2) Every application for a marriage license shall include the social security numbers of the parties applying for the license.

SECTION 2. That Section 49-306, Idaho Code, be, and the same is hereby amended to read as follows:

49-306. APPLICATION FOR DRIVER'S LICENSE OR INSTRUCTION PERMIT.(1) Every application for an instruction permit or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit or driver's license shall be accompanied by the following fee, none of which is refundable:

(a) Class A, B, C license with endorsements $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 $15.00
(k) Motorcycle endorsement skills test .....$ 5.00
(l) Knowledge test ..... $ 3.00
(m) Seasonal driver's license..... $23.50
(n) One time motorcycle "M" endorsement $11.50
(o) Motorcycle endorsement instruction permit $11.50

(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 or by the social security administration. A driver's license or instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code. Every application shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, cancelled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature. The applicant may be required to submit proof of identity and date 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 in the current expense fund; and

(d) Deposit an amount equal to five dollars ($5.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the five dollar ($5.00) fee;

(e) Remit the remainder to the state treasurer; and

(f) Deposit eleven dollars and fifty cents ($11.50) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to eleven dollars and fifty cents ($11.50) of each fee.

(7) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars ($2.00) of each fee for a driver's license or seasonal driver's license shall be deposited in the emergency medical services account II created in section 39-146A, Idaho Code; and

(b) Sixteen dollars and fifty cents ($16.50) of each fee for a

seasonal or class A, B, or C driver's license shall be deposited in the state highway account; and

(c) Ten dollars and fifty cents ($10.50) of each fee for a class A, B, or C instruction permit or driver's license classification change shall be deposited in the state highway account; and

(d) Six dollars and fifty cents ($6.50) of each fee for a duplicate seasonal or class A, B, or C driver's license, class A, B, or C driver's license extension, or additional endorsement shall be deposited in the state highway account; and

(e) Four dollars ($4.00) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account; and

(f) Five dollars and thirty cents ($5.30) of each fee for a class D driver's license shall be deposited in the driver training account; and

(g) Seven dollars and twenty cents ($7.20) of each fee for a class D driver's license shall be deposited in the highway distribution account; and

(h) Two dollars and sixty cents ($2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training account; and

(i) Three dollars and ninety cents ($3.90) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution account; and

(j) Five dollars ($5.00) of each fee for a class A, B, or C skills test shall be deposited in the state highway account; and

(k) One dollar ($1.00) of each fee for a class A, B, C or D driver's license shall be deposited in the motorcycle safety program fund established in section 33-4804, Idaho Code.

(l) Three dollars and fifty cents ($3.50) of each fee for a class D skills test shall be deposited into the state highway account.

(9) The contractor administering a class A, B, or C skills test shall be entitled to thirty dollars ($30.00) of the skills test fee. A contractor administering a class A, B, or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) 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 3. That Section 49-2443, Idaho Code, be, and the same is hereby amended to read as follows:

49-2443. APPLICATION. Application for an identification card must be made in person before an examiner authorized by the department to issue driver's licenses. The examiner shall obtain the following from the applicant:
(1) The true and full name and Idaho residence address and mailing address, if different, of the applicant;
(2) The identity and date and place of birth of the applicant as set forth in a certified copy of his birth certificate and, subject to subsection (~~6~~7) of this section, other satisfactory evidence of identity acceptable to the examiner or the department;
(3) The height and weight of the applicant;
(4) The color of eyes and hair of the applicant; ~~and~~
(5) Applicant's signature~~.~~; and
(6) The applicant's social security number as verified by the applicant's social security card or by the social security administration.
(7) An applicant who has no photo identification or other secondary identification document satisfactory to the department as acceptable to verify identity shall be eligible to receive an identification card upon presentation of a certified copy of his birth certificate and either a social security card or current medicaid card.

SECTION 4. That Chapter 1, Title 73, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 73-122, Idaho Code, and to read as follows:

73-122. SOCIAL SECURITY NUMBER. The social security number of an applicant shall be recorded on any application for a professional, occupational or recreational license.

Approved March 20, 1998.

CHAPTER 249
(H.B. No. 414)

AN ACT

RELATING TO CHILD SUPPORT SERVICES; AMENDING SECTION 56-203A, IDAHO CODE, TO PROVIDE A STATE REGISTRY AND DISBURSEMENT UNIT FOR CHILD SUPPORT ORDERS AND TO PROVIDE THE COUNTIES WITH THE OPTION TO CONTINUE COLLECTING AND DISBURSING ACTIVITIES FOR CASES ESTABLISHED PRIOR TO 1994.

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

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

56-203A. AUTHORITY OF DEPARTMENT TO ENFORCE CHILD SUPPORT -- SUPPORT ENFORCEMENT SERVICES. Whenever the department receives an application for public assistance on behalf of a child and it shall appear to the satisfaction of the department that said child has been abandoned by its parents, or that the child and one (1) parent have been abandoned by the other parent, or that the parent or other person who has a responsibility for the care, support or maintenance of such child has failed or neglected to give proper care or support to such child, the department shall take appropriate action under the provisions of this chapter, the abandonment or nonsupport statutes, or other appropriate statutes of this state to ensure that such parent or other person responsible shall pay for the care, support or maintenance of said dependent child.

The department may accept applications for support enforcement services on behalf of persons who are not recipients of public assistance and may take action as it deems appropriate to establish, modify or enforce support obligations against persons owing a duty to pay support. Action to establish support obligations may be taken under the abandonment or nonsupport statutes or other appropriate statutes of this state. ~~The board of health and welfare may establish, by regulation, such reasonable standards as it deems necessary to limit applications for support enforcement services. Said standards shall take into account the income, property or other resources already available to support said person for whom a support obligation exists.~~

The department may charge fees to compensate it for services rendered in establishment of or enforcement of support obligations. The ~~board of health and welfare~~ director shall, by ~~regulation~~ rule, establish reasonable fees for support enforcement services, and said schedules of fees shall be made available to all applicants for support enforcement services. The department may, on showing of necessity, waive or defer any such fee.

Effective October 1, 1998, the department shall maintain a state case registry that contains records of each case in which enforcement services are being provided under this section and each child support order established or modified in the state from and after that date. Effective the same date, the department shall collect and disburse payments for all support orders related to cases for which services are provided under this section and each child support order estab-

lished or modified after January 1, 1994, that is subject to income withholding orders. For child support orders established prior to January 1, 1994, at the option of each county and upon payment of the cost of the service, the department shall collect and disburse payments.

Approved March 20, 1998.

CHAPTER 250
(H.B. No. 409, As Amended)

AN ACT

RELATING TO CHILD SUPPORT ENFORCEMENT; AMENDING SECTION 7-1402, IDAHO CODE, TO DEFINE "VISITATION"; AMENDING SECTION 7-1403, IDAHO CODE, TO CLARIFY THAT NONCOMPLIANCE WITH VISITATION MUST BE SUBSTANTIAL TO INVOKE THE STATUTE; AMENDING SECTION 7-1405, IDAHO CODE, TO PROVIDE THAT THE PETITIONER MUST NOTIFY THE LICENSEE; AMENDING SECTION 7-1406, IDAHO CODE, TO SPECIFY THE PROCEDURE FOR SERVICE OF NOTICE; AMENDING SECTION 7-1410, IDAHO CODE, TO PROVIDE THE TERM OF SUSPENSION FOR NONCOMPLIANCE WITH A VISITATION ORDER; AND AMENDING SECTION 7-1413, IDAHO CODE, TO CLARIFY THE APPLICATION OF THE PROVISION FOR A STAY IN VISITATION CASES.

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

SECTION 1. That Section 7-1402, Idaho Code, be, and the same is hereby amended to read as follows:

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; and

(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.

(10) "Visitation" means custodial period, custodial schedule, residential schedule, parenting, or parenting time.

SECTION 2. That Section 7-1403, Idaho Code, be, and the same is hereby amended to read as follows:

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 substantially failed to comply with an order providing for visitation with a minor child.

SECTION 3. That Section 7-1405, Idaho Code, be, and the same is hereby amended to read as follows:

7-1405. COMMENCEMENT OF JUDICIAL PROCEEDING FOR SUSPENSION OF LICENSE. (1) A petition for suspension of a license may be commenced in the magistrate division of the district court of the county where the child support order or order for visitation was issued; and no filing fees shall be charged for seeking only the relief provided under this chapter. 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;

(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; and

(d) The last known address of the licensee.

(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.

(3) A copy of the filed petition shall be delivered to the licensee by personal service according to the Idaho rules of civil procedure.

SECTION 4. That Section 7-1406, Idaho Code, be, and the same is hereby amended to read as follows:

7-1406. NOTICE. Upon commencement of a proceeding for suspension of a license under this chapter, the ~~court~~ petitioner shall ~~notify~~ also serve the licensee ~~by mail, to the address provided by the petitioner~~ notice:

(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.

SECTION 5. That Section 7-1410, Idaho Code, be, and the same is hereby amended to read as follows:

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 court shall issue an order suspending a license for a period up to one hundred eighty (180) days for substantial noncompliance with an order for visitation with the minor child.

(3) The order suspending a license shall include the last known address of the licensee.

(~~3~~4) 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~~5) A final order suspending a license issued by a court or the department shall be forwarded to the appropriate licensing authority.

(~~5~~6) If the court or department finds that the petition for suspension should be denied, the petition shall be dismissed without prejudice.

SECTION 6. That Section 7-1413, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ stay an order suspending a license due to ~~failure-to-allow~~ substantial noncompliance with a visitation order, for up to one hundred eighty (180) days, upon the licensee's reasonable assurance of compliance, and shall vacate the suspension if the licensee has complied with the order for visitation during the stay.

(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.

Approved March 20, 1998.

CHAPTER 251
(H.B. No. 423, As Amended)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1402, IDAHO CODE, TO PROVIDE FOR LICENSE REVOCATION FOR FAILING TO DEPART THE REAL PROPERTY OF ANOTHER AFTER NOTIFICATION AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 36-1603, IDAHO CODE, TO PROVIDE THAT NO PERSON SHALL FAIL TO DEPART IMMEDIATELY FROM THE REAL PROPERTY OF ANOTHER AFTER WRITTEN OR ORAL NOTIFICATION TO DEPART.

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

SECTION 1. That Section 36-1402, Idaho Code, be, and the same is hereby amended to read as follows:

36-1402. PENALTY -- INFRACTION -- MISDEMEANOR -- FELONY -- REVOCATION OF LICENSE -- DISPOSITION OF MONEYS. (a) Infraction Penalty. Any person who pleads guilty to or is found guilty of an infraction of this code or rules promulgated pursuant thereto, shall be punished in accordance with the provisions of the Idaho infractions rules.

(b) Misdemeanor Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a misdemeanor under the provisions of this title or rules promulgated pursuant thereto shall, except in cases where a higher penalty is prescribed, be fined in a sum of not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000) and/or by commitment to jail for not more than six (6) months. The minimum fine, per animal, fish or bird, for the illegal taking, illegal possession or the illegal waste of the following animals, fish or birds shall be as indicated below:

Animal, Fish or Bird	Minimum Fine
Bighorn sheep, mountain goat and moose	$500
Elk	$300
Any other big game animal	$200
Wild turkey, swan and sturgeon	$200
Chinook salmon, wild steelhead and bull trout	$100
Any other game bird, game fish or furbearer	$ 25

(c) Felony Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a felony under the provisions of this title shall be punished in accordance with section 18-112, Idaho Code. Provided further, that the judge hearing the case shall forthwith revoke for life, the hunting, fishing or trapping license and privileges of any person who, within a five (5) year period, pleads guilty to, is found guilty of or is convicted of three (3) or more felony violations of the provisions of this title.

(d) License Revocation. Any person entering a plea of guilty or being found guilty or convicted of violating any of the provisions of this title, or who otherwise fails to comply with the requirements of a citation in connection with any such offense, may, in addition to any other penalty assessed by the court, have his hunting, fishing, or trapping privileges revoked for such period of time as may be determined by the court not to exceed three (3) years, except that violations classified as felonies under section 36-1401, Idaho Code, or as flagrant violations as defined in subsection (e) of this section, shall authorize the court to impose license revocations for periods of time up to and including life, with said period beginning on the date of conviction, finding of guilt or the entry of the plea of guilty. Provided further, that the magistrate hearing the case shall forthwith revoke the hunting, fishing, or trapping privileges for a period of not less than one (1) year for any of the following offenses:

1. Taking or possessing upland game birds, migratory waterfowl, salmon, steelhead, sturgeon, or any big game animal during closed season.
2. Exceeding the daily bag or possession limit of upland game birds, migratory waterfowl or big game animals.

3. Taking any fish by unlawful methods as set forth in section 36-902(a) or (c), Idaho Code.

4. Unlawfully purchasing, possessing or using any license, tag or permit as set forth in section 36-405(c), Idaho Code.

5. Trespassing in violation of warning signs or failing to depart the real property of another after notification as set forth in section 36-1603, Idaho Code.

~~8~~6. The unlawful release of any species of live fish into any public body of water in the state. For purposes of this paragraph, an "unlawful release of any species of live fish" shall mean a release of any species of live fish, or live eggs thereof, in the state without the permission of the director of the department of fish and game; provided, that no permission is required when fish are being freed from a hook and released at the same time and place where caught or when crayfish are being ~~release~~ released from a trap at the same time and place where caught.

Provided further, that the magistrate hearing the case of a first time hunting violation offender under the age of twenty-one (21) may require that the offender attend a remedial hunter education course at the offender's expense. Upon successful completion of the course, the remainder of the revocation period shall be subject to a withheld judgment so long as the offender is not convicted of any additional hunting violations during the period. The cost of the course shall be seventy-five dollars ($75.00) to be paid to the department. The commission shall establish by rule the curriculum of the hunter education remedial course.

The revocation shall consist of cancellation of an existing license for the required length of time and/or denial of the privilege of purchasing an applicable license for the length of time required to meet the revocation period decreed. In the case of persons pleading guilty, convicted or found guilty of committing multiple offenses, the revocation periods may run consecutively. In the case of pleas of guilty, convictions or findings of guilt involving taking big game animals during closed season or exceeding the daily bag or possession limit of big game, the magistrate hearing the case shall revoke the hunting, fishing or trapping privileges of any person convicted or found guilty of those offenses for a period of not less than one (1) year for each big game animal illegally taken or possessed by the person convicted or found guilty.

It shall be a misdemeanor for any person to hunt, fish, or trap or purchase a license to do so during the period of time for which such privilege is revoked.

For the purpose of this title, the term "conviction" shall mean either a withheld judgment or a final conviction.

(e) Flagrant Violations. In addition to any other penalties assessed by the court, the magistrate hearing the case shall forthwith revoke the hunting, fishing or trapping privileges, for a period of not less than one (1) year and may revoke the privileges for a period up to and including the person's lifetime, for any person who enters a plea of guilty, who is found guilty, or who is convicted of any of the following flagrant violations:

1. Taking a big game animal after sunset by spotlighting, with use of artificial light, or with a night vision enhancement

device.

2. Unlawfully taking two (2) or more big game animals within a twelve (12) month period.

3. Taking a big game animal with a rimfire or centerfire cartridge firearm during an archery or muzzleloader only hunt.

4. Hunting, fishing, trapping or purchasing a license when license privileges have been revoked pursuant to this section or section 36-1501, Idaho Code.

5. Taking any big game animal during a closed season when there is no established take season open anywhere in the state for any species of big game.

6. Any felony violation provided in section 36-1401, Idaho Code.

(f) For purposes of the wildlife violator compact, section 36-2301, Idaho Code, et seq., the department shall:

1. Suspend a violator's license for failure to comply with the terms of a citation from a party state. A copy of a report of failure to comply from the licensing authority of the issuing state shall be conclusive evidence.

2. Revoke a violator's license for a conviction in a party state. A report of conviction from the licensing authority of the issuing state shall be conclusive evidence.

(g) Disposition of Fines and Forfeitures. Distribution of fines and forfeitures remitted shall be in accordance with section 19-4705, Idaho Code.

SECTION 2. That Section 36-1603, Idaho Code, be, and the same is hereby amended to read as follows:

36-1603. TRESPASSING ON CULTIVATED LANDS OR IN VIOLATION OF WARNING SIGNS -- POSTING OF PUBLIC LANDS. (a) No person shall enter the real property of another and shoot any weapon or enter such property for the purposes of hunting, fishing or trapping, without the permission of the owner or person in charge of the property, which property is either cultivated or posted with legible "No Trespassing" signs, is posted with a minimum of one hundred (100) square inches of fluorescent orange paint except that when metal fence posts are used, the entire post must be painted fluorescent orange, or other notices of like meaning, placed in a conspicuous manner on or near all boundaries at intervals of not less than one (1) sign, paint area or notice per six hundred sixty (660) feet provided that where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this subsection if said signs, paint areas or notices are posted at such points of access. For the purposes of this section, "cultivated" shall mean soil that is being or has been prepared by loosening or breaking up for the raising of crops, or used for the raising of crops, or artificially irrigated pasturage. <u>No person shall fail to depart immediately from the real property of another after being notified in writing or orally by the owner of the real property or the owner's authorized agent.</u>

(b) No person shall post, sign, or indicate that any public lands within this state, not held under an exclusive control lease, are privately owned lands.

Approved March 23, 1998.

CHAPTER 252
(S.B. No. 1324)

AN ACT

RELATING TO THE IDAHO BOARD OF OPTOMETRY; AMENDING SECTION 54-1522, IDAHO CODE, TO ESTABLISH A PENALTY FEE OF ONE HUNDRED FIFTY DOLLARS FOR REINSTATEMENT OF A LICENSE.

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

SECTION 1. That Section 54-1522, Idaho Code, be, and the same is hereby amended to read as follows:

54-1522. LICENSES -- ISSUANCE -- RENEWAL -- RECORDING AND DISPLAY. If the applicant shall pass a satisfactory examination and shall show that he is a person of good moral character and that he possesses the qualifications required in this chapter to entitle him to be licensed as an optometrist, then, upon request, such applicant shall be entitled to a license authorizing the applicant to practice optometry in the state of Idaho. All licenses to practice optometry shall be issued in the name of the Idaho state board of optometry with the seal thereof attached. All licenses so issued shall expire on the thirtieth day of June following the issuance of the license and all persons who practice optometry within the meaning of this chapter are entitled to renew and shall renew their licenses on the first day of July each calendar year. The failure to timely renew a license under this section shall require the payment of a fee of one hundred fifty dollars ($150) for a license renewal in addition to other fees which may be required, or other sanctions which may be imposed under this act. Every person to whom a license is granted shall display the same, or a copy of the same certified to by the board in a conspicuous part of his office wherein the practice of optometry is conducted. It shall be unlawful for any person to practice optometry in the state of Idaho before complying with these requirements.

Any person licensed to practice optometry in the state of Idaho on the effective date of this act shall be eligible to renew his license on the first day of July following the effective date of this act.

Approved March 23, 1998.

CHAPTER 253
(H.B. No. 769)

AN ACT

RELATING TO BUSINESS IMPROVEMENT DISTRICTS; AMENDING SECTION 50-2601, IDAHO CODE, TO PROVIDE THAT CITIES MAY LEVY SPECIAL ASSESSMENTS ON ALL BUSINESS PROPERTY WITHIN A BUSINESS IMPROVEMENT DISTRICT; AND AMENDING SECTION 50-2603, IDAHO CODE, TO PROVIDE THAT THE INITIATING PETITION FOR A BUSINESS IMPROVEMENT DISTRICT SHALL CONTAIN THE SIGNATURES OF THE PERSONS WHO OPERATE BUSINESSES OR OWN BUSINESS PROPERTY IN THE PROPOSED DISTRICT WHICH WOULD PAY FIFTY PERCENT OF THE PROPOSED SPECIAL ASSESSMENTS.

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

SECTION 1. That Section 50-2601, Idaho Code, be, and the same is hereby amended to read as follows:

50-2601. AUTHORIZATION -- PURPOSES -- SPECIAL ASSESSMENTS. The legislature hereby authorizes all incorporated cities:

(1) To establish business improvement districts, hereafter referred to as district or districts, for the following purposes:

(a) The acquisition, construction or maintenance of parking facilities for the benefit of the district;

(b) Physical improvement and decoration of any public space in the district;

(c) Promotion of public events which are to take place on or in public places in the district;

(d) The acquisition and operation of transportation services to promote retail trade activities within the district; and

(e) The general promotion of retail trade activities in the district.

(2) To levy special assessments on all businesses <u>or business property</u> within the district and specially benefited by a business improvement district to pay the damages or costs incurred therein as provided in this chapter.

SECTION 2. That Section 50-2603, Idaho Code, be, and the same is hereby amended to read as follows:

50-2603. INITIATION PETITION -- CONTENTS. For the purpose of establishing a business improvement district, an initiation petition may be presented to the legislative authority having jurisdiction of the area in which the proposed business improvement district is to be located. The initiation petition shall contain the following:

(1) A description of the boundaries of the proposed district;

(2) The proposed uses and projects to which the proposed special assessment revenues shall be put and the total estimated cost thereof; and

(3) The estimated rate of levy of special assessment with a proposed breakdown by class of business if such classification is to be used.

The initiating petition shall also contain the signatures of the persons who operate businesses or own business property in the proposed district which would pay fifty percent (50%) of the proposed special assessments.

Approved March 23, 1998.

CHAPTER 254
(H.B. No. 563)

AN ACT

RELATING TO WORKER'S COMPENSATION; REPEALING SECTION 72-442, IDAHO CODE, PERTAINING TO WILFUL SELF-EXPOSURE.

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

SECTION 1. That Section 72-442, Idaho Code, be, and the same is hereby repealed.

Approved March 23, 1998.

CHAPTER 255
(H.B. No. 644)

AN ACT

RELATING TO TERM LIMITATIONS; PROVIDING A STATEMENT OF LEGISLATIVE FINDINGS, SUBMITTING AN ADVISORY VOTE TO THE ELECTORS, DIRECTING THE ATTORNEY GENERAL AND SECRETARY OF STATE TO SUBMIT THE QUESTION, DECLARING THE ADVISORY QUESTION A MEASURE AND MAKING THE PROVISIONS OF CHAPTER 66, TITLE 67, IDAHO CODE, GOVERNING ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES APPLICABLE THERETO.

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

SECTION 1. The Legislature finds and declares that the issue of term limitations for elected officials is of importance to the citizens of the state of Idaho. As a representative body, members of the Legislature desire to be responsive and responsible to these citizens. For this reason, the Legislature herewith submits an advisory ballot to the electors of the state of Idaho, and the results will guide the Legislature as to whether Idaho laws providing term limitations for state, county and city elected officials and school district trustees should be retained or repealed.

At the election to be held on November 3, 1998, the question provided herein shall be placed on the ballot as an advisory vote. The Secretary of State and the Attorney General shall perform the duties as prescribed for an initiative in Chapter 18, Title 34, Idaho Code. The question shall be as follows:

"Since the United States Supreme Court has ruled that Idaho's 1994

term limits law does not apply to members of Congress, shall term limits for state elected officials, state legislators, county elected officials, city elected officials and school district trustees remain in place?"

The advisory question provided for in this act is hereby declared to be a "measure" for purposes of Chapter 66, Title 67, Idaho Code, and the provisions of Chapter 66, Title 67, Idaho Code, shall apply thereto.

Law Without Signature.

CHAPTER 256
(H.B. No. 643, As Amended)

AN ACT

RELATING TO STATE ENDOWMENT LANDS; REPEALING SECTION 20-102, IDAHO CODE; AMENDING CHAPTER 1, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-102, IDAHO CODE, TO ESTABLISH THE PENITENTIARY PERMANENT ENDOWMENT FUND; AMENDING CHAPTER 1, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-102A, IDAHO CODE, TO ESTABLISH THE PENITENTIARY EARNINGS RESERVE FUND; REPEALING SECTION 20-103, IDAHO CODE; AMENDING CHAPTER 1, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-103, IDAHO CODE, TO ESTABLISH THE PENITENTIARY INCOME FUND; REPEALING SECTION 33-902, IDAHO CODE; AMENDING CHAPTER 9, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-902, IDAHO CODE, TO ESTABLISH THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND; AMENDING CHAPTER 9, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-902A, IDAHO CODE, TO ESTABLISH THE PUBLIC SCHOOL EARNINGS RESERVE FUND; AMENDING SECTION 33-903, IDAHO CODE, TO ESTABLISH THE PUBLIC SCHOOL INCOME FUND; REPEALING SECTION 33-2909, IDAHO CODE; AMENDING CHAPTER 29, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2909, IDAHO CODE, TO ESTABLISH THE UNIVERSITY PERMANENT ENDOWMENT FUND; AMENDING CHAPTER 29, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2909A, IDAHO CODE, TO ESTABLISH THE UNIVERSITY EARNINGS RESERVE FUND; REPEALING SECTION 33-2910, IDAHO CODE; AMENDING CHAPTER 29, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2910, IDAHO CODE, TO ESTABLISH THE UNIVERSITY INCOME FUND; REPEALING SECTION 33-2911, IDAHO CODE; AMENDING CHAPTER 29, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2911, IDAHO CODE, TO ESTABLISH THE SCIENTIFIC SCHOOL PERMANENT ENDOWMENT FUND; AMENDING CHAPTER 29, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2911A, IDAHO CODE, TO ESTABLISH THE SCIENTIFIC SCHOOL EARNINGS RESERVE FUND; REPEALING SECTION 33-2912, IDAHO CODE; AMENDING CHAPTER 29, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2912, IDAHO CODE, TO ESTABLISH THE SCIENTIFIC SCHOOL INCOME FUND; REPEALING SECTION 33-2913, IDAHO CODE; AMENDING CHAPTER 29, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2913, IDAHO CODE, TO ESTABLISH THE AGRICULTURAL COLLEGE PERMANENT ENDOWMENT FUND; AMENDING CHAPTER 29, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION

33-2913A, IDAHO CODE, TO ESTABLISH THE AGRICULTURAL COLLEGE EARNINGS RESERVE FUND; REPEALING SECTION 33-2914, IDAHO CODE; AMENDING CHAPTER 29, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2914, IDAHO CODE, TO ESTABLISH THE AGRICULTURAL COLLEGE INCOME FUND; REPEALING SECTION 33-3301, IDAHO CODE; AMENDING CHAPTER 33, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3301, IDAHO CODE, TO ESTABLISH THE NORMAL SCHOOL PERMANENT ENDOWMENT FUND; AMENDING CHAPTER 33, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3301A, IDAHO CODE, TO ESTABLISH THE NORMAL SCHOOL EARNINGS RESERVE FUND; AMENDING CHAPTER 33, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3301B, IDAHO CODE, TO ESTABLISH THE NORMAL SCHOOL INCOME FUND; AMENDING SECTION 33-3302, IDAHO CODE, TO PROVIDE A REFERENCE TO THE NORMAL SCHOOL EARNINGS RESERVE FUND AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-3303, IDAHO CODE, TO PROVIDE A REFERENCE TO THE NORMAL SCHOOL EARNINGS RESERVE FUND AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-3304, IDAHO CODE, TO PROVIDE A REFERENCE TO THE NORMAL SCHOOL EARNINGS RESERVE FUND AND TO MAKE A TECHNICAL CORRECTION; AMENDING THE CHAPTER HEADING OF CHAPTER 7, TITLE 57, IDAHO CODE; AMENDING SECTION 57-715, IDAHO CODE, TO PROVIDE THAT THE ENDOWMENT FUND INVESTMENT BOARD SHALL CONTROL, MANAGE AND INVEST PERMANENT ENDOWMENT FUNDS ACCORDING TO POLICIES ESTABLISHED BY THE STATE BOARD OF LAND COMMISSIONERS; AMENDING SECTION 57-716, IDAHO CODE, TO PROVIDE FOR DEPOSIT OF PROCEEDS OF THE SALES OF PUBLIC LANDS INTO PERMANENT ENDOWMENT FUNDS; AMENDING SECTION 57-718, IDAHO CODE, TO PROVIDE THAT THE ENDOWMENT FUND INVESTMENT BOARD IS WITHIN THE STATE BOARD OF LAND COMMISSIONERS, TO PROVIDE REFERENCES TO THE INVESTMENT BOARD, TO DELETE THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE DIRECTOR OF THE DEPARTMENT OF FINANCE FROM THE ENDOWMENT FUND INVESTMENT BOARD; AMENDING SECTION 57-720, IDAHO CODE, TO PROVIDE THAT THE ENDOWMENT FUND INVESTMENT BOARD AND ITS MANAGERS ARE AUTHORIZED TO AND MAY INVEST THE PERMANENT ENDOWMENT FUNDS AND THE EARNINGS RESERVE FUNDS OF THE STATE AND TO PROVIDE REFERENCES TO THE INVESTMENT BOARD; AMENDING SECTION 57-721, IDAHO CODE, TO PROVIDE FOR MANAGEMENT OF EARNINGS RESERVE FUNDS AND TO PROVIDE REFERENCES TO THE INVESTMENT BOARD; REPEALING SECTION 57-722, IDAHO CODE; AMENDING SECTION 57-723, IDAHO CODE, TO PROVIDE FOR APPLICATION OF THE UNIFORM PRUDENT INVESTOR ACT AND THE IDAHO CONSTITUTION SHALL APPLY TO THE INVESTMENT ACTIONS OF THE ENDOWMENT FUND INVESTMENT BOARD AND THE INVESTMENT MANAGERS REGARDING PERMANENT ENDOWMENT FUNDS AND EARNINGS RESERVE FUNDS AND TO PROVIDE REFERENCES TO THE INVESTMENT BOARD; AMENDING CHAPTER 7, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-723A, IDAHO CODE, TO PROVIDE FOR DEPOSIT AND DISTRIBUTION OF EARNINGS RESERVE FUNDS AND INCOME FUNDS BY THE STATE BOARD OF LAND COMMISSIONERS AND TO PROVIDE FOR PAYMENT OF ADMINISTRATIVE COSTS FROM EARNINGS RESERVE FUNDS BY THE LEGISLATURE; REPEALING SECTION 57-724, IDAHO CODE; AMENDING CHAPTER 7, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-724, IDAHO CODE, TO PROVIDE A FORMULA FOR DETERMINING GAINS AND LOSSES; AMENDING CHAPTER 7, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-724A, IDAHO CODE, TO DEFINE EARNINGS; AMENDING SECTION 57-725, IDAHO CODE, TO PROVIDE THAT THE ENDOWMENT FUND INVESTMENT BOARD SHALL

MAKE A SUMMARY REPORT TO THE STATE BOARD OF LAND COMMISSIONERS AS DIRECTED BY THE STATE BOARD OF LAND COMMISSIONERS; AMENDING SECTION 58-104, IDAHO CODE, TO PROVIDE POWERS AND DUTIES OF THE STATE LAND BOARD; AMENDING SECTION 58-133, IDAHO CODE, TO PROVIDE FOR ESTABLISHMENT OF A LAND BANK FUND, TO PROVIDE FOR DEPOSIT WITH THE STATE TREASURER, TO PROVIDE FOR CONTROL OF THE MONEY IN THE FUND BY THE STATE BOARD OF LAND COMMISSIONERS AND TO PROVIDE FOR TREATMENT OF MONEYS IN THE FUND; REPEALING SECTION 58-140, IDAHO CODE; AMENDING SECTION 58-316, IDAHO CODE, TO PROVIDE THAT PURCHASE MONEYS SHALL BE CREDITED TO THE LAND BANK FUND AND TO PROVIDE FOR CONDUCT OF THE ENDOWMENT FUND INVESTMENT BOARD REGARDING MONEYS IN THE FUND; REPEALING SECTION 66-1101, IDAHO CODE; AMENDING CHAPTER 11, TITLE 66, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 66-1101, IDAHO CODE, TO ESTABLISH THE MENTAL HOSPITAL PERMANENT ENDOWMENT FUND; AMENDING CHAPTER 11, TITLE 66, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 66-1101A, IDAHO CODE, TO ESTABLISH THE MENTAL HOSPITAL EARNINGS RESERVE FUND; REPEALING SECTION 66-1102, IDAHO CODE; AMENDING CHAPTER 11, TITLE 66, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 66-1102, IDAHO CODE, TO ESTABLISH THE MENTAL HOSPITAL INCOME FUND; REPEALING SECTION 66-1103, IDAHO CODE; AMENDING CHAPTER 11, TITLE 66, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 66-1103, IDAHO CODE, TO ESTABLISH THE CHARITABLE INSTITUTIONS PERMANENT ENDOWMENT FUND; REPEALING SECTION 66-1104, IDAHO CODE; AMENDING CHAPTER 11, TITLE 66, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 66-1104, IDAHO CODE, TO ESTABLISH THE CHARITABLE INSTITUTIONS EARNINGS RESERVE FUND; REPEALING SECTION 66-1105, IDAHO CODE; AMENDING CHAPTER 11, TITLE 66, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 66-1105, IDAHO CODE, TO ESTABLISH THE CHARITABLE INSTITUTIONS INCOME FUND; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5779, IDAHO CODE, TO ESTABLISH THE PUBLIC BUILDINGS PERMANENT ENDOWMENT FUND; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5780, IDAHO CODE, TO ESTABLISH THE PUBLIC BUILDINGS EARNINGS RESERVE FUND; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5781, IDAHO CODE, TO ESTABLISH THE PUBLIC BUILDINGS INCOME FUND; AND PROVIDING EFFECTIVE DATES AND DIRECTION TO THE STATE CONTROLLER.

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

SECTION 1. That Section 20-102, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 1, 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 20-102, Idaho Code, and to read as follows:

20-102. PENITENTIARY PERMANENT ENDOWMENT FUND. (1) There is established in the state treasury the penitentiary permanent endowment fund. This fund is perpetually appropriated for the beneficiaries of the endowment. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by

the state board of land commissioners. The fund principal shall forever remain intact. The fund shall be a permanent fund and shall consist of the following:

(a) Proceeds of the sale of lands granted to the state of Idaho by the United States government in the Idaho Admission Bill, 26 Stat. L. 215, ch. 656, known as penitentiary endowment lands, and lands granted in lieu thereof;

(b) Proceeds of royalties arising from the extraction of minerals on penitentiary endowment lands owned by the state; and

(c) Moneys allocated from the penitentiary earnings reserve fund.

(2) Proceeds from the sale of penitentiary endowment lands may first be deposited into the land bank fund established in section 58-133, Idaho Code, to be used to acquire other lands within the state for the benefit of the beneficiaries of the penitentiary endowment. If the land sale proceeds are not used to acquire other lands in accordance with section 58-133, Idaho Code, the land sale proceeds shall be deposited into the penitentiary permanent endowment fund along with any earnings on the proceeds.

(3) Earnings from the investment of the penitentiary permanent endowment fund shall be distributed according to the provisions of section 57-723A, Idaho Code.

SECTION 3. That Chapter 1, 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 20-102A, Idaho Code, and to read as follows:

20-102A. PENITENTIARY EARNINGS RESERVE FUND. (1) There is established in the state treasury the penitentiary earnings reserve fund. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund shall consist of the following:

(a) All earnings of the penitentiary permanent endowment fund;

(b) Proceeds of the sale of timber growing upon penitentiary endowment lands;

(c) Proceeds of leases of penitentiary endowment lands;

(d) Proceeds of interest charged upon deferred payments on penitentiary endowment lands or timber on those lands; and

(e) All other proceeds received from the use of penitentiary endowment lands and not otherwise designated for deposit in the penitentiary permanent endowment fund.

(2) Moneys shall be distributed out of the penitentiary earnings reserve fund only to support the beneficiaries of the penitentiary endowment, including distributions by the state board of land commissioners to the penitentiary permanent endowment fund and the penitentiary income fund; provided, that funds shall not be appropriated by the legislature from the penitentiary earnings reserve fund except to pay for administrative costs incurred managing the assets of the penitentiary endowment including, but not limited to, real property and monetary assets.

SECTION 4. That Section 20-103, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Chapter 1, 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 20-103, Idaho Code, and to read as follows:

20-103. PENITENTIARY INCOME FUND. There is established in the state treasury the penitentiary income fund. The fund shall consist of all moneys distributed from the penitentiary earnings reserve fund and from other sources as the legislature deems appropriate. Moneys in the penitentiary income fund shall be used to benefit the beneficiaries of the penitentiary endowment and distributed to current beneficiaries of the penitentiary endowment pursuant to legislative appropriation.

SECTION 6. That Section 33-902, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Chapter 9, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-902, Idaho Code, and to read as follows:

33-902. PUBLIC SCHOOL PERMANENT ENDOWMENT FUND. (1) There is established in the state treasury the public school permanent endowment fund. This fund is perpetually appropriated for the beneficiaries of the endowment. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund principal shall forever remain intact. The fund shall be a permanent fund and shall consist of the following:

(a) Proceeds from the sale of lands granted to the state by the federal government, known as public school endowment lands, and lands granted in lieu of public school endowment school lands;

(b) Lands, money or other property acquired by gift or grant from any person or corporation or under any law or grant of the federal government for general educational purposes;

(c) All other grants of lands or money made to the state from the federal government for general educational purposes where no other purpose is indicated in the grant;

(d) All estates or distributive shares of estates that may escheat to the state;

(e) All unclaimed shares and dividends of any corporation incorporated under the laws of the state;

(f) Proceeds of royalties arising from the extraction of minerals on public school land owned by the state;

(g) Other proceeds and avails as are required by law of the federal government or of the state of Idaho to be made a part of the fund; and

(h) Moneys allocated from the public school earnings reserve fund.

(2) Public school endowment land sale proceeds may be deposited into the land bank fund established in section 58-133, Idaho Code, to be used to acquire other lands within the state for the benefit of the endowment beneficiaries. If proceeds from the sale of public school

endowment lands are not used to acquire other lands in accordance with section 58-133, Idaho Code, the proceeds from the sale shall be deposited into the public school permanent endowment fund along with any earnings on the proceeds.

(3) Earnings from the investment of the public school permanent endowment fund shall be distributed according to the provisions of section 57-723A, Idaho Code.

SECTION 8. That Chapter 9, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-902A, Idaho Code, and to read as follows:

33-902A. PUBLIC SCHOOL EARNINGS RESERVE FUND. (1) There is established in the state treasury the public school earnings reserve fund. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The public school earnings reserve fund shall consist of the following:

(a) All earnings of the public school permanent endowment fund;

(b) Proceeds of the sale of timber on public school endowment lands;

(c) Proceeds of leases of public school endowment lands;

(d) Proceeds of interest charged upon deferred payments on public school endowment lands or timber on those lands;

(e) Earnings on contracts for the sale of timber and the sale of lands related to the public school endowment; and

(f) All other proceeds received from the use of public school endowment lands and not otherwise designated for deposit in the public school permanent endowment fund.

(2) Moneys shall be distributed out of the public school earnings reserve fund only to support the beneficiaries of the public school endowment, including distributions by the state board of land commissioners to the public school permanent endowment fund and the public school income fund; provided, that funds shall not be appropriated by the legislature from the public school earnings reserve fund except to pay for administrative costs incurred managing the assets of the public school endowment including, but not limited to, real property and monetary assets.

SECTION 9. That Section 33-903, Idaho Code, be, and the same is hereby amended to read as follows:

33-903. PUBLIC SCHOOL INCOME FUND. (1) The public school income fund is that fund in the treasury of the state of Idaho to which are credited ~~all income from the public school fund;~~ the following:

(a) Moneys distributed from the public school earnings reserve fund and other sources the legislature deems appropriate;

(b) ~~the--p~~Proceeds of all state taxes levied for public school purposes;

(c) Ggrants of moneys from the federal government for public school purposes when other disposition is not specified by law;

(d) Nninety percent (90%) of any moneys received by any depart-

ment of state government from the federal government from sales, royalties, bonuses or rentals of oil, gas or mineral lands;

(e) L~~l~~egislative appropriations in support of the public schools, and other moneys required by the law of the federal government or of the state of Idaho to be made a part of ~~said fund~~ and credited ~~thereto. Interest earned~~ to the fund.

(2) Earnings on the investment of idle moneys in the public school income fund shall be paid to the public school income fund.

(3) Moneys in the public school income fund shall be used for the benefit of beneficiaries of the public school endowment and distributed to current beneficiaries of the public school endowment pursuant to legislative appropriation.

SECTION 10. That Section 33-2909, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Chapter 29, 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 33-2909, Idaho Code, and to read as follows:

33-2909. UNIVERSITY PERMANENT ENDOWMENT FUND. (1) There is established in the state treasury the university permanent endowment fund. This fund is perpetually appropriated for the beneficiaries of the endowment. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund principal shall forever remain intact. The fund shall be a permanent fund and shall consist of the following:

(a) Proceeds from the sale of any lands granted to the state of Idaho by the United States government for university purposes under the provisions of the act of congress of February 18, 1881, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming for university purposes," as amended by the Idaho Admission Bill 26 Stat. L. 215, ch. 656, and lands granted in lieu of university lands;

(b) Proceeds of royalties arising from the extraction of minerals on university endowment lands owned by the state;

(c) Moneys allocated from the university earnings reserve fund.

(2) Proceeds from the sale of university endowment lands may be first deposited into the land bank fund established in section 58-133, Idaho Code, for the benefit of endowment beneficiaries. If the proceeds from the sale of land are not used to acquire other lands in accordance with section 58-133, Idaho Code, the land sale proceeds shall be deposited into the university permanent endowment fund along with any earnings on the proceeds.

(3) Earnings from the investment of the university permanent endowment fund shall be distributed according to the provisions of section 57-723A, Idaho Code.

SECTION 12. That Chapter 29, 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 33-2909A, Idaho Code, and to read as

follows:

33-2909A. UNIVERSITY EARNINGS RESERVE FUND. (1) There is established in the state treasury the university earnings reserve fund. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund shall consist of the following:

(a) All earnings from the university permanent endowment fund;

(b) Proceeds of the sale of timber growing upon university endowment lands;

(c) Proceeds of leases of university endowment lands;

(d) Proceeds of interest charged upon deferred payments on university endowment lands or on timber on those lands; and

(e) All other proceeds received from the use of university endowment lands and not otherwise designated for deposit in the university permanent endowment fund.

(2) Moneys shall be distributed out of the university earnings reserve fund only to support the beneficiaries of the university endowment, including distributions by the state board of land commissioners to the university permanent endowment fund and the university income fund; provided, that funds shall not be appropriated by the legislature from the university earnings reserve fund except to pay for administrative costs incurred managing the assets of the university endowment including, but not limited to, real property and monetary assets.

SECTION 13. That Section 33-2910, Idaho Code, be, and the same is hereby repealed.

SECTION 14. That Chapter 29, 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 33-2910, Idaho Code, and to read as follows:

33-2910. UNIVERSITY INCOME FUND. There is established in the state treasury the university income fund. The fund shall consist of all moneys distributed from the university earnings reserve fund and from other sources as the legislature deems appropriate. Moneys in the university income fund shall be used for the benefit of beneficiaries of the university endowment and distributed to current beneficiaries of the endowment pursuant to legislative appropriation.

SECTION 15. That Section 33-2911, Idaho Code, be, and the same is hereby repealed.

SECTION 16. That Chapter 29, 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 33-2911, Idaho Code, and to read as follows:

33-2911. SCIENTIFIC SCHOOL PERMANENT ENDOWMENT FUND. (1) There is established in the state treasury the scientific school permanent endowment fund. This fund is perpetually appropriated for the benefi-

ciaries of the endowment. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund principal shall forever remain intact. The fund shall be a permanent fund and shall consist of the following:

(a) Proceeds of the sale of lands granted to the state of Idaho by the United States government under the provisions of the Idaho Admission Bill, 26 Stat. L. 215, ch. 656, known as scientific school endowment lands, and those granted in lieu of such lands;

(b) Proceeds of royalties arising from the extraction of minerals on scientific school endowment lands owned by the state;

(c) Moneys allocated from the scientific school earnings reserve fund.

(2) Proceeds from the sale of scientific school endowment lands may be first deposited into the land bank fund established in section 58-133, Idaho Code, to be used to acquire other lands within the state for the benefit of beneficiaries of the scientific school endowment. If the land sale proceeds are not used to acquire other lands in accordance with section 58-133, Idaho Code, the proceeds shall be deposited into the scientific school permanent endowment fund along with any earnings on the proceeds.

(3) Earnings from the investment of the scientific school permanent endowment fund shall be distributed according to the provisions of section 57-723A, Idaho Code.

SECTION 17. That Chapter 29, 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 33-2911A, Idaho Code, and to read as follows:

33-2911A. SCIENTIFIC SCHOOL EARNINGS RESERVE FUND. (1) There is established in the state treasury the scientific school earnings reserve fund. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund shall consist of the following:

(a) All earnings of the scientific school permanent endowment fund;

(b) Proceeds of the sale of timber on scientific school endowment lands;

(c) Proceeds of leases of scientific school lands;

(d) Proceeds of interest charged upon deferred payments on scientific school endowment lands or on timber on those lands; and

(e) All other proceeds received from the use of scientific school endowment lands and not otherwise designated for deposit in the scientific school permanent endowment fund.

(2) Moneys shall be distributed out of the scientific school earnings reserve fund only to support the beneficiaries of the scientific school endowment, including distributions by the state board of land commissioners to the scientific school permanent endowment fund and the scientific school income fund; provided, that funds shall not be appropriated by the legislature from the scientific school earnings reserve fund except to pay for administrative costs incurred managing

the assets of the scientific school endowment including, but not limited to, real property and monetary assets.

SECTION 18. That Section 33-2912, Idaho Code, be, and the same is hereby repealed.

SECTION 19. That Chapter 29, 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 33-2912, Idaho Code, and to read as follows:

33-2912. SCIENTIFIC SCHOOL INCOME FUND. There is established in the state treasury the scientific school income fund. The fund shall consist of all moneys distributed from the scientific school earnings reserve fund and from other sources as the legislature deems appropriate. Moneys in the scientific school income fund shall be used for the benefit of the beneficiaries of the endowment and distributed to current beneficiaries of the scientific school endowment pursuant to legislative appropriation.

SECTION 20. That Section 33-2913, Idaho Code, be, and the same is hereby repealed.

SECTION 21. That Chapter 29, 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 33-2913, Idaho Code, and to read as follows:

33-2913. AGRICULTURAL COLLEGE PERMANENT ENDOWMENT FUND. (1) There is established in the state treasury the agricultural college permanent endowment fund. This fund is perpetually appropriated for the beneficiaries of the endowment. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund principal shall forever remain intact. The fund shall be a permanent fund and shall consist of the following:

(a) Proceeds of the sale of agricultural college endowment lands granted to the state of Idaho by the United States government under the provisions of the Idaho Admission Bill, 26 Stat. L. 215, ch. 656;

(b) Proceeds of royalties arising from the extraction of minerals on agricultural college endowment lands owned by the state;

(c) Moneys allocated from the agricultural college earnings reserve fund.

(2) Proceeds from the sale of agricultural college endowment lands may be first deposited into the land bank fund established in section 58-133, Idaho Code, to be used to acquire other lands within the state for the benefit of beneficiaries of the agricultural college endowment. If the land sale proceeds are not used to acquire other lands in accordance with section 58-133, Idaho Code, the proceeds shall be deposited into the agricultural college permanent endowment fund along with any earnings on the proceeds.

(3) Earnings from the agricultural college permanent endowment

fund shall be distributed according to the provisions of section 57-723A, Idaho Code.

SECTION 22. That Chapter 29, 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 33-2913A, Idaho Code, and to read as follows:

33-2913A. AGRICULTURAL COLLEGE EARNINGS RESERVE FUND. (1) There is established in the state treasury the agricultural college earnings reserve fund. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund shall consist of the following:

(a) All earnings of the agricultural college permanent endowment fund;

(b) Proceeds of the sale of timber growing on agricultural college endowment lands;

(c) Proceeds of leases of agricultural college endowment lands;

(d) Proceeds of interest charged upon deferred payments on agricultural college endowment lands or on timber on those lands; and

(e) All other proceeds received from the use of agricultural college endowment lands and not otherwise designated for deposit in the agricultural college permanent endowment fund.

(2) Moneys shall be distributed out of the agricultural college earnings reserve fund only to support the beneficiaries of the agricultural college endowment, including distributions by the state board of land commissioners to the agricultural college permanent endowment fund and the agricultural college income fund; provided, that funds shall not be appropriated by the legislature from the agricultural college earnings reserve fund except to pay for administrative costs incurred managing the assets of the agricultural college endowment including, but not limited to, real property and monetary assets.

SECTION 23. That Section 33-2914, Idaho Code, be, and the same is hereby repealed.

SECTION 24. That Chapter 29, 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 33-2914, Idaho Code, and to read as follows:

33-2914. AGRICULTURAL COLLEGE INCOME FUND. There is established in the state treasury the agricultural college income fund. The fund shall consist of all moneys distributed from the agricultural college earnings reserve fund and from other sources as the legislature deems appropriate. Moneys in the agricultural college income fund shall be used for the benefit of the beneficiaries of the endowment and distributed to current beneficiaries of the agricultural college endowment pursuant to legislative appropriation.

SECTION 25. That Section 33-3301, Idaho Code, be, and the same is hereby repealed.

SECTION 26. That Chapter 33, 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 33-3301, Idaho Code, and to read as follows:

33-3301. NORMAL SCHOOL PERMANENT ENDOWMENT FUND. (1) There is established in the state treasury the normal school permanent endowment fund. This fund is perpetually appropriated for the beneficiaries of the endowment. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund principal shall forever remain intact. The fund shall be a permanent fund and shall consist of the following:

(a) Proceeds of the sale of any of the lands granted to the state of Idaho by the United States government under the provisions of the Idaho Admission Bill, 26 Stat. L. 215, ch. 656, known as normal school endowment lands, and those granted in lieu of such;

(b) Proceeds of royalties arising from the extraction of minerals on normal endowment school lands owned by the state; and

(c) Moneys allocated from the normal school earnings reserve fund.

(2) Provided however, that proceeds from the sale of normal school endowment lands may be first deposited into the land bank fund established in section 58-133, Idaho Code, to be used to acquire other lands within the state for the benefit of endowment beneficiaries. If the land sale proceeds are not used to acquire other lands in accordance with section 58-133, Idaho Code, the proceeds shall be deposited into the normal school permanent endowment fund along with any earnings on the proceeds.

(3) Earnings from the investment of the normal school permanent endowment fund shall be distributed according to the provisions of section 57-723A, Idaho Code.

SECTION 27. That Chapter 33, 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 33-3301A, Idaho Code, and to read as follows:

33-3301A. NORMAL SCHOOL EARNINGS RESERVE FUND. (1) There is established in the state treasury the normal school earnings reserve fund. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund shall consist of the following:

(a) All earnings of the normal school permanent endowment fund;

(b) Proceeds of the sale of timber growing on normal school endowment lands;

(c) Proceeds of leases of normal school endowment lands;

(d) Proceeds of interest upon deferred payments on normal school endowment lands or timber on those lands; and

(e) All other proceeds received from the use of normal school endowment lands and not otherwise designated for deposit in the normal school permanent endowment fund.

(2) Moneys shall be distributed out of the normal school earnings reserve fund only to support the beneficiaries of the normal school endowment, including distributions by the state board of land commissioners to the normal school permanent endowment fund and the normal school income fund; provided, that funds shall not be appropriated by the legislature from the normal school earnings reserve fund except to pay for administrative costs incurred managing the assets of the normal school endowment including, but not limited to, real property and monetary assets.

SECTION 28. That Chapter 33, 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 33-3301B, Idaho Code, and to read as follows:

33-3301B. NORMAL SCHOOL INCOME FUND. There is established in the state treasury the normal school income fund. The fund shall consist of all moneys distributed from the normal school earnings reserve fund and from other sources as the legislature deems appropriate. Moneys in the normal school income fund shall be used for the benefit of the beneficiaries of the endowment and distributed to current beneficiaries of the normal school endowment pursuant to legislative appropriation. However, not more than fifty percent (50%) of earnings of the normal school income fund shall ever be appropriated for the support and maintenance of either Lewis-Clark State College or the department of education at Idaho State University.

SECTION 29. That Section 33-3302, Idaho Code, be, and the same is hereby amended to read as follows:

33-3302. APPROPRIATION FOR LEWIS-CLARK STATE COLLEGE. Fifty percent (50%) of all moneys that now are in or which may hereafter accrue to the ~~said~~ normal school income fund are perpetually appropriated and set apart for the support and maintenance of the Lewis-Clark State College, the same to be available for such purpose immediately upon their being credited to the ~~said~~ fund.

SECTION 30. That Section 33-3303, Idaho Code, be, and the same is hereby amended to read as follows:

33-3303. APPROPRIATION FOR SUPPORT AND MAINTENANCE OF AN ALBION NORMAL SCHOOL FIELD INSTITUTE. Subject to legislative approval by adoption of a concurrent resolution in both houses approving a department of parks and recreation memorandum of understanding negotiated between the Idaho department of parks and recreation and the city of Albion and other public or private agencies interested in cooperative management of an Albion Normal School Field Institute within an Albion State Normal School state park complex, the appropriately designated state agency shall receive three percent (3%) of all moneys that are now in or which may hereafter accrue to ~~said~~ the normal school income fund, the same to be set apart for support and maintenance of the Albion Normal School Field Institute. The memorandum of understanding negotiated by the Idaho department of parks and recreation and the

city of Albion and other public or private agencies interested in cooperative management of an Albion Normal School Field Institute within an Albion State Normal School state park complex shall be negotiated in accordance with guidelines established in the Idaho department of parks and recreation's Albion Campus General Development Plan.

SECTION 31. That Section 33-3304, Idaho Code, be, and the same is hereby amended to read as follows:

33-3304. APPROPRIATION FOR THE DEPARTMENT OF EDUCATION AT IDAHO STATE UNIVERSITY. Fifty percent (50%) of all the moneys that now are in or which may hereafter accrue to the ~~said~~ normal school income fund are hereby appropriated and set apart for the support and maintenance of the department of education at Idaho State University, the same to be available for such purpose immediately upon their being credited to the ~~said~~ fund. Should the legislature, by adoption of a concurrent resolution in both houses, approve a memorandum of understanding negotiated by the Idaho department of parks and recreation between the city of Albion and other public or private agencies interested in cooperative management of an Albion Normal School Field Institute within an Albion State Normal School state park complex, the percentage share for the department of education at Idaho State University shall be reduced from fifty percent (50%) to forty-seven percent (47%). In the event that the memorandum of understanding is not approved, section 33-3305, Idaho Code, shall apply.

SECTION 32. That the heading of Chapter 7, Title 57, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 7
INVESTMENT OF PERMANENT ENDOWMENT AND EARNINGS RESERVE FUNDS

SECTION 33. That Section 57-715, Idaho Code, be, and the same is hereby amended to read as follows:

57-715. PERMANENT ENDOWMENT FUNDS DECLARED TO BE TRUST FUNDS. Permanent endowment funds of the state of Idaho are hereby declared to be trust funds of the highest and most sacred order and shall be controlled, managed and invested by the investment board and the investment manager(s) or custodian(s) in accordance with the highest standard, as directed by law and according to policies established by the state board of land commissioners, and as hereinafter provided.

SECTION 34. That Section 57-716, Idaho Code, be, and the same is hereby amended to read as follows:

57-716. INVESTMENT OF PROCEEDS OF THE SALES OF PUBLIC LANDS. The proceeds of the sales of ~~public~~ endowment lands of the state, if not deposited into the land bank fund established in section 58-133, Idaho Code, and used to purchase other lands, shall be deposited into the appropriate permanent endowment funds and must be invested for and on account of the specific purposes for which the lands were granted.

SECTION 35. That Section 57-718, Idaho Code, be, and the same is hereby amended to read as follows:

57-718. ESTABLISHMENT OF INVESTMENT BOARD -- MEMBERS -- QUALIFICATIONS. There is hereby established in the ~~office--of--the--governor~~ state board of land commissioners an endowment fund investment board, hereinafter referred to as the "investment board." This investment board shall consist of ~~the-superintendent-of-public-instruction,-the director-of-the-department-of-finance,-and-other~~ members hereinafter designated who shall be appointed by the governor subject to senate confirmation. The members of the investment board subject to appointment shall be: one (1) citizen with a minimum of ten (10) years' broad experience in the field of public educational administration, one (1) member of the Idaho senate, one (1) member of the Idaho house of representatives, and ~~four~~ six (~~4~~6) public members from the citizenry at large who are knowledgeable and experienced in financial matters and the placement or management of investments assets.

SECTION 36. That Section 57-720, Idaho Code, be, and the same is hereby amended to read as follows:

57-720. PERMANENT ENDOWMENT FUNDS -- EARNINGS RESERVE FUNDS -- INCOME FUNDS -- INVESTMENT POLICY REGULATIONS -- ANNUAL AUDIT. The investment board or its investment manager(s) may, and are hereby authorized to, invest the permanent endowment funds and the earnings reserve funds of the state of Idaho. The investment board shall formulate investment policy regulations governing the investment of permanent endowment funds and earnings reserve funds. The regulations shall pertain to the types, kinds or nature of investment of any of the funds, and any limitations, conditions or restrictions upon the methods, practices or procedures for investment, reinvestments, purchases, sales or exchange transactions, provided such regulations shall not conflict with nor be in derogation of any Idaho constitutional provision or of the provisions of this act.

Annually, the investment board shall cause an audit to be conducted of the investment of permanent endowment funds and earnings reserve funds, such audit to be conducted by a recognized certified public accountant. The certified public accountant conducting the audit shall not be an employee of the state. The expense of such audit shall be paid from the appropriation to the investment board.

The state treasurer shall invest the income funds of the respective endowments and distribute the moneys in the income funds according to legislative appropriation.

SECTION 37. That Section 57-721, Idaho Code, be, and the same is hereby amended to read as follows:

57-721. MANAGEMENT OF PERMANENT ENDOWMENT FUNDS BY INVESTMENT MANAGER(S) -- APPOINTMENT OF CUSTODIAN OF PERMANENT ENDOWMENT FUNDS. The investment board shall select and contract with a minimum of one (1) investment manager(s) to manage the permanent endowment funds and the earnings reserve funds. Such investment manager(s) so selected shall, subject to the direction of the investment board, exert control

over the funds as though the investment manager(s) were the owner thereof.

The investment board may select and contract with a minimum of one (1) bank or trust company to act as custodian of endowment fund assets and provide safekeeping thereof.

SECTION 38. That Section 57-722, Idaho Code, be, and the same is hereby repealed.

SECTION 39. That Section 57-723, Idaho Code, be, and the same is hereby amended to read as follows:

57-723. INVESTMENT POWERS OF THE BOARD -- APPLICATION OF IDAHO UNIFORM PRUDENT ~~MAN-INVESTMENT~~ INVESTOR ACT. Any other sections of the Code notwithstanding, the investment board or its investment manager(s) or custodian(s) shall have the care and control of all investment instruments representing mortgages, bonds, warrants, investments and other securities in which the permanent endowment funds and earnings reserve funds of the state shall be invested.

~~In exercising its discretion in the selection and purchase of investments or securities hereinabove authorized, t~~The investment board and its investment manager(s) shall be governed by the Idaho uniform ~~P~~prudent ~~Man-Investment~~ investor ~~A~~act (chapter 5, title 68, Idaho Code), and shall invest and manage the assets of the respective trusts in accordance with that act and the Idaho constitution.

SECTION 40. That Chapter 7, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 57-723A, Idaho Code, and to read as follows:

57-723A. DEPOSIT AND DISTRIBUTION OF EARNINGS RESERVE FUNDS -- INCOME FUNDS -- ADMINISTRATIVE COSTS. (1) As directed by the state board of land commissioners, the investment board shall distribute the earnings from the investments or securities in accordance with this act and the laws governing the respective endowment funds. Earnings from the investment of permanent endowment funds related to state land grants shall be deposited into each endowment's respective earnings reserve fund for distribution as provided in this section.

(2) At least annually, the state board of land commissioners shall distribute moneys constituting earnings reserve funds, in excess of the amount necessary to pay administrative costs, to the income funds of the respective endowments, to each endowment's respective permanent endowment fund or maintained as a free fund balance in the earnings reserve funds, in amounts to be determined by the state board of land commissioners.

(3) Moneys in the earnings reserve funds shall be available for appropriation by the legislature to pay for administrative costs incurred managing the assets of the endowments including, but not limited to, real property and monetary assets.

SECTION 41. That Section 57-724, Idaho Code, be, and the same is hereby repealed.

SECTION 42. That Chapter 7, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 57-724, Idaho Code, and to read as follows:

57-724. DETERMINATION OF GAINS AND LOSSES. Gains and losses shall be determined as follows:

(1) The current value of the fund as of the end of the fiscal year, excluding unrealized capital gains and losses; compared to

(2) All amounts allocated under section 4, article IX, constitution of the state of Idaho excluding all amounts allocated from the earnings reserve fund.

Losses shall be made up from earnings reserve funds or by legislative appropriation.

SECTION 43. That Chapter 7, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 57-724A, Idaho Code, and to read as follows:

57-724A. EARNINGS DEFINED. "Earnings" shall mean all revenues generated from the management of endowment lands and their related endowment funds including, but not limited to, timber sale proceeds, lease fees, interest, dividends, and net realized capital gains and losses. "Earnings" does not include mineral royalties, land sale proceeds, or unrealized gains or losses from the investment of endowment funds.

SECTION 44. That Section 57-725, Idaho Code, be, and the same is hereby amended to read as follows:

57-725. ~~SUMMARY~~ REPORTS TO ~~LEGISLATURE~~ THE STATE BOARD OF LAND COMMISSIONERS. The investment board shall make ~~a--summary~~ reports to the ~~state-affairs-committees-of-the-senate-and-the-house-of-representatives-within-fourteen-(14)-days-after-a-regular-session-of-the--legislature-convenes-of-all-securities-and-investments-sold,-purchased-or acquired--by-the-permanent-endowment-funds-of-the-state-since-the-previous-report.-The-report-shall-further-include-the-net-profit-or-loss, if-any,-as-a-result-of-all-sales-or-purchases-of-such--securities--and investments.~~

~~The--summary--report--shall-include-a-status-report-of-the-investments-held-at-the-end-of-the-last-fiscal-year-of-the-state,-and--shall further--report-on-the-overall-performance-of-the-funds-under-the-control-of-the-board,-compared-to-the-overall--market--and/or--comparable selected-funds-or-investment-portfolios,-including-a-comparison-of-the performance--of--the-outside-investment-manager-and-the-performance-of the-staff-investment-trustee~~ state board of land commissioners as directed by the state board of land commissioners.

SECTION 45. 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 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.

11. To direct and oversee the conduct and operations of the endowment fund investment board and the Idaho department of lands.

12. To appoint and consult with expert advisors for each critical

function for which the state board of land commissioners has responsibility. In this context, the term "expert advisor" shall mean a person engaged in the business for which he holds himself out to be an expert and who is experienced in that field.

13. Strategically plan and establish policies to coordinate the management of state lands with the investment goals of the permanent endowment funds and earnings reserve funds.

14. To provide reports of the status and performance of state endowment lands and the respective endowment funds to the state affairs committees of the senate and the house of representatives within fourteen (14) days after a regular session of the legislature convenes.

15. To make distributions to endowment income funds as provided in section 57-723A, Idaho Code.

SECTION 46. That Section 58-133, Idaho Code, be, and the same is hereby amended to read as follows:

58-133. ACQUISITION, SALE, LEASE, EXCHANGE OR DONATION OF PUBLIC LANDS -- CREATION AND OPERATION OF LAND BANK FUND. (1) The state board of land commissioners may select and purchase, lease, receive by donation, hold in trust, or in any manner acquire for and in the name of the state of Idaho such tracts or leaseholds of land as it shall deem proper, and after inventory and classification as provided herein, shall determine the best use or uses of said lands: provided, however, that all state-owned lands classified as chiefly valuable for forestry, reforestation, recreation and watershed protection are hereby reserved from sale and set aside as state forests.

(2) The proceeds from the sale of state endowment land may be deposited into a fund which shall be known as the "land bank fund," which is hereby created in the state treasury for the purpose of temporarily holding proceeds from land sales pending the purchase of other land for the benefit of the beneficiaries of the endowment. A record shall be maintained showing separately from each of the respective endowments the moneys received from the sale of endowment lands. Moneys from the sale of lands which are a part of an endowment land grant shall be used only to purchase land for the same endowment.

(3) All moneys deposited in the land bank fund, including earnings on those moneys, are hereby continually appropriated to the state board of land commissioners for the purposes enumerated in this section. The state board of land commissioners may hold proceeds from the sale of land in the land bank fund for a period not to exceed two (2) years from the effective date of sale. If, by the end of the second year, the proceeds from the land sale have not been encumbered to purchase other land within the state, the proceeds shall be deposited in the permanent endowment fund of the respective endowment along with any earnings on the proceeds from the land sale, unless the period is extended by the legislature.

SECTION 47. That Section 58-140, Idaho Code, be, and the same is hereby repealed.

SECTION 48. That Section 58-316, Idaho Code, be, and the same is

hereby amended to read as follows:

58-316. FORFEITURE OF RIGHTS OF DELINQUENT PURCHASER -- REINSTATEMENT -- DISPOSITION OF PURCHASE MONEY. If any purchaser of state land after receiving a certificate of purchase, as provided in this chapter, shall fail to make any of the payments stipulated therein, and the same remains unpaid for thirty (30) days after the time when it should have been paid as specified in such certificate, the director of the department of lands shall, by certified letter addressed to such delinquent purchaser at his last known post-office address, notify such purchaser of such delinquency and of the amount due, and that unless such amount be paid within sixty (60) days after the date of mailing such letter and notice, the board will declare all rights of the purchaser in and to said land forfeited and the certificate and contract relating thereto annulled.

After the expiration of said period of sixty (60) days, the state board of land commissioners shall declare such forfeiture, and shall annul said contract and certificate. Such action of the board shall be recorded in the minutes of the proceedings of the board. When such forfeiture shall have been declared and entered in the minutes, as hereinbefore provided, all rights of such purchaser in and to said lands shall be and are extinguished and the state board of land commissioners may sell the land again: provided, that unless other disposition has meanwhile been made of the land, said state board of land commissioners may, upon application of the former purchaser, if such application is made within two (2) years after the certificate has been canceled, reinstate any such canceled certificate upon compliance by the purchaser with such conditions as the board may impose. Such conditions to be imposed by the board shall include the funding of delinquent instalments of principal and interest accrued to the date of reinstatement, by distributing the same in annual payments, to commence with the expiration of the original period covered by the contract of sale, or any extension or extensions thereof, such deferred payments to draw interest from the date of the reinstatement of the certificate; but the board may, in its discretion, impose other conditions, and may, in its discretion, require the payment of such delinquencies in cash at the time of reinstatement. On reinstatement being made the board may, in its discretion, give credit to the purchaser, as for interest paid on his contract, of any amounts which may have been paid by the purchaser as rent of the land during the period of the cancellation of his certificate. Any and all reinstatements of certificates of purchase of state lands heretofore made by the state board of land commissioners are hereby legalized and validated: provided further, that in case of such default and declaration of forfeiture except as provided for in this section, all previous payments made by a purchaser on account of such land shall be forfeited to the state, and the title and right of possession to such land shall be in the state as if no sale had ever been made.

All purchase moneys arising from the sale of state land shall without delay be paid by the director of the department of lands to the treasurer who shall receipt for the same, and the same shall be <u>credited</u> by ~~him credited~~ <u>the treasurer</u> to the ~~permanent~~ <u>land bank</u> fund to which the land sold belonged. All ~~interest~~ <u>earnings</u> on such money

shall be paid forthwith by the director to the state treasurer~~,~~ and ~~be by--the--treasurer~~ credited by the treasurer to the ~~income~~ land bank fund to which the land belonged: provided, that moneys arising from the sale of state land and earnings on those moneys shall be managed by the state board of land commissioners pursuant to section 58-133, Idaho Code; and provided ~~however~~ further, that upon the application of any such owner of a certificate of purchase of state land, filed with the director before the expiration of the sixty (60) days limited in said notice, showing by affidavit, or otherwise, that he is unable to pay the amount then due, or that it would work great hardship upon him to be required to make such payment at that time, and stating that he believes he will be unable to make such payment on or before November first of the current year, the state board of land commissioners may extend the time of payment of the amount then due to November first succeeding: provided, that in case of such extension the purchaser shall pay interest on the amount due from January first of the current year to the date of payment at the rate per annum, set by the state board of land commissioners, such interest to be part of the amount payable. Provided, the state board of land commissioners may, in its sole discretion, enter into a supplemental agreement with any owner and holder of a sale certificate on state land, by the terms of which all delinquent payments of principal and interest due on such certificate may be deferred beyond the end of the term of such certificate, or any prior extension thereof, a number of years equal to the period of such delinquency. The said sum so deferred shall draw interest the same as if it were originally a part of the purchase price named in the sale certificate from the date of the supplemental certificate herein referred to until paid. The forms, terms and conditions of such supplemental agreement, and the form of the application therefor, shall be as prescribed by the board. Any such supplemental agreement as herein provided, and any agreement reinstating a canceled certificate, as herein provided, shall be deemed a part of the original sale certificate.

SECTION 49. That Section 66-1101, Idaho Code, be, and the same is hereby repealed.

SECTION 50. That Chapter 11, Title 66, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 66-1101, Idaho Code, and to read as follows:

66-1101. MENTAL HOSPITAL PERMANENT ENDOWMENT FUND. (1) There is established in the state treasury the mental hospital permanent endowment fund. This fund is perpetually appropriated for the beneficiaries of the endowment. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund principal shall forever remain intact. The fund shall be a permanent fund and shall consist of the following:

(a) Proceeds from the sale of lands granted to the state of Idaho under the provisions of section 11 of the Idaho Admission Bill, 26 Stat. L. 215, ch. 656, known at the time of admission as insane

asylum lands, and lands granted in lieu thereof;

(b) Proceeds of royalties from the extraction of minerals on mental hospital lands owned by the state;

(c) Moneys allocated from the mental hospital earnings reserve fund.

(2) Provided however, that proceeds from the sale of mental hospital lands may be first deposited into the land bank fund established in section 58-133, Idaho Code, to be used to acquire other lands within the state for the benefit of beneficiaries of the mental hospital endowment. If the land sale proceeds are not used to acquire other lands in accordance with section 58-133, Idaho Code, the proceeds shall be deposited into the mental hospital permanent endowment fund along with any earnings on the proceeds.

(3) Earnings from the investment of the mental hospital permanent endowment fund shall be distributed according to the provisions of section 57-723A, Idaho Code.

SECTION 51. That Chapter 11, Title 66, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 66-1101A, Idaho Code, and to read as follows:

66-1101A. MENTAL HOSPITAL EARNINGS RESERVE FUND. (1) There is established in the state treasury the mental hospital earnings reserve fund. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund shall consist of the following:

(a) Earnings of the mental hospital permanent endowment fund, created to receive moneys from the insane asylum endowment provided in section 11 of the Idaho Admission Bill, 26 Stat. L. 215, ch. 656;

(b) Proceeds of the sale of timber growing upon mental hospital lands;

(c) Proceeds of leases of mental hospital lands;

(d) Proceeds of interest charged upon deferred payments on mental hospital lands or timber on those lands; and

(e) All other proceeds received from the use of mental hospital endowment lands and not otherwise designated for deposit in the mental hospital permanent endowment fund.

(2) Moneys shall be distributed out of the mental hospital earnings reserve fund only to support the beneficiaries of the mental hospital endowment, including distributions by the state board of land commissioners to the mental hospital permanent endowment fund and the mental hospital income fund; provided, that funds shall not be appropriated by the legislature from the mental hospital earnings reserve fund except to pay for administrative costs incurred managing the assets of the mental hospital endowment including, but not limited to, real property and monetary assets.

SECTION 52. That Section 66-1102, Idaho Code, be, and the same is hereby repealed.

SECTION 53. That Chapter 11, Title 66, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 66-1102, Idaho Code, and to read as follows:

66-1102. MENTAL HOSPITAL INCOME FUND. There is established in the state treasury the mental hospital income fund. The fund shall consist of all moneys distributed from the mental hospital earnings reserve fund and from other sources as the legislature deems appropriate. Moneys in the mental hospital income fund shall be used for the benefit of the beneficiaries of the endowment and distributed to current beneficiaries of the mental hospital endowment pursuant to legislative appropriation.

SECTION 54. That Section 66-1103, Idaho Code, be, and the same is hereby repealed.

SECTION 55. That Chapter 11, Title 66, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 66-1103, Idaho Code, and to read as follows:

66-1103. CHARITABLE INSTITUTIONS PERMANENT ENDOWMENT FUND. (1) There is established in the state treasury the charitable institutions permanent endowment fund. This fund is perpetually appropriated for the beneficiaries of the endowment. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund principal shall forever remain intact. The fund shall be a permanent fund and shall consist of the following:

(a) Proceeds from the sale of lands granted to the state of Idaho for charitable, educational, penal and reformatory institutions by the Idaho Admission Bill, 26 Stat. L. 215, ch. 656, and lands granted in lieu thereof;

(b) Proceeds of royalties from the extraction of minerals on charitable institutions endowment lands owned by the state;

(c) Moneys allocated from the charitable institutions earnings reserve fund;

(2) Provided however, that proceeds from the sale of charitable institutions endowment lands may be first deposited into the land bank fund established in section 58-133, Idaho Code, to be used to acquire other lands within the state for the benefit of beneficiaries of the charitable institutions endowment. If the land sale proceeds are not used to acquire other lands in accordance with section 58-133, Idaho Code, the proceeds shall be deposited into the charitable institutions permanent endowment fund along with any earnings on the proceeds.

(3) Earnings from the investment of the charitable institutions permanent endowment fund shall be distributed according to the provisions of section 57-723A, Idaho Code.

SECTION 56. That Section 66-1104, Idaho Code, be, and the same is hereby repealed.

SECTION 57. That Chapter 11, Title 66, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 66-1104, Idaho Code, and to read as follows:

66-1104. CHARITABLE INSTITUTIONS EARNINGS RESERVE FUND. (1) There is established in the state treasury the charitable institutions earnings reserve fund. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund shall consist of the following:

(a) Earnings of the charitable institutions permanent endowment fund;

(b) Proceeds from the sale of timber growing upon charitable institutions endowment lands;

(c) Proceeds of leases of charitable institutions endowment lands;

(d) Proceeds of interest charged upon deferred payments on charitable institutions endowment lands or timber on those lands; and

(e) All other proceeds received from the use of charitable institutions endowment lands and not otherwise designated for deposit in the charitable institutions permanent endowment fund.

(2) Moneys shall be distributed out of the charitable institutions earnings reserve fund only to support the beneficiaries of the charitable institutions endowment, including distributions by the state board of land commissioners to the charitable institutions permanent endowment fund and the charitable institutions income fund; provided, that funds shall not be appropriated by the legislature from the charitable institutions earnings reserve fund except to pay for administrative costs incurred managing the assets of the charitable institutions endowment including, but not limited to, real property and monetary assets.

SECTION 58. That Section 66-1105, Idaho Code, be, and the same is hereby repealed.

SECTION 59. That Chapter 11, Title 66, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 66-1105, Idaho Code, and to read as follows:

66-1105. CHARITABLE INSTITUTIONS INCOME FUND. There is established in the state treasury the charitable institutions income fund. The fund shall consist of all moneys distributed from the charitable institutions earnings reserve fund and from other sources as the legislature deems appropriate. Moneys in the charitable institutions income fund shall be used for the benefit of the beneficiaries of the endowment and distributed to current beneficiaries of the charitable institutions endowment pursuant to legislative appropriation.

SECTION 60. That Chapter 57, 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 67-5779, Idaho Code, and to read as

follows:

67-5779. PUBLIC BUILDINGS PERMANENT ENDOWMENT FUND. (1) There is established in the state treasury the public buildings permanent endowment fund. This fund is perpetually appropriated for the beneficiaries of the endowment. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund principal shall forever remain intact. The fund shall be a permanent fund and shall consist of the following:

(a) Proceeds of the sale of lands granted to the state of Idaho by the United States government in the Idaho Admission Bill, 26 Stat. L. 215, ch. 656, known as public buildings endowment lands, and lands granted in lieu thereof;

(b) Proceeds of royalties arising from the extraction of minerals on public buildings endowment lands owned by the state; and

(c) Moneys allocated from the public buildings earnings reserve fund.

(2) Proceeds from the sale of public buildings endowment lands may first be deposited into the land bank fund established in section 58-133, Idaho Code, to be used to acquire other lands within the state for the benefit of the beneficiaries of the public buildings endowment. If the land sale proceeds are not used to acquire other lands in accordance with section 58-133, Idaho Code, the land sale proceeds shall be deposited into the public buildings permanent endowment fund along with any earnings on the proceeds.

(3) Earnings from the investment of the public buildings permanent endowment fund shall be distributed according to the provisions of section 57-723A, Idaho Code.

SECTION 61. That Chapter 57, 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 67-5780, Idaho Code, and to read as follows:

67-5780. PUBLIC BUILDINGS EARNINGS RESERVE FUND. (1) There is established in the state treasury the public buildings earnings reserve fund. The fund shall be managed and invested by the endowment fund investment board according to law and the policies established by the state board of land commissioners. The fund shall consist of the following:

(a) All earnings of the public buildings permanent endowment fund;

(b) Proceeds of the sale of timber growing upon public buildings endowment lands;

(c) Proceeds of leases of public buildings endowment lands;

(d) Proceeds of interest charged upon deferred payments on public buildings endowment lands or timber on those lands; and

(e) All other proceeds received from the use of public buildings endowment lands and not otherwise designated for deposit in the public buildings permanent endowment fund.

(2) Moneys shall be distributed out of the public buildings earnings reserve fund only to support the beneficiaries of the public

buildings endowment, including distributions by the state board of land commissioners to the public buildings permanent endowment fund and the public buildings income fund; provided, that funds shall not be appropriated by the legislature from the public buildings earnings reserve fund except to pay for administrative costs incurred managing the assets of the public buildings endowment including, but not limited to, real property and monetary assets.

SECTION 62. That Chapter 57, 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 67-5781, Idaho Code, and to read as follows:

67-5781. PUBLIC BUILDINGS INCOME FUND. There is established in the state treasury the public buildings income fund. The fund shall consist of all moneys distributed from the public buildings earnings reserve fund and from other sources as the legislature deems appropriate. Moneys in the public buildings income fund shall be used for the benefit of the beneficiaries of the endowment and distributed to current beneficiaries of the public buildings endowment pursuant to legislative appropriation.

SECTION 63. This act shall be in full force and effect on and after July 1, 2000, provided the United States Congress has approved amendments to Section 5 of the Idaho Admission Bill, 26 Stat. L. 215, ch. 656, regarding sale or lease of school lands; and the state board of canvassers has certified that amendments to Sections 3, 4, 8 and 11 of Article IX of the Constitution of the State of Idaho have been adopted at the general election of 1998 regarding funds related to the public school endowment, disposition of school lands, and investing of permanent endowment funds.

Following the successful occurrence of the foregoing events, the governor shall issue a proclamation declaring that the described events have occurred and the dates of the events, and this act shall be in full force and effect on and after the date described.

Upon enactment, the state controller shall transfer all fund balances from the improvement funds to the respective earnings reserve funds.

Approved March 23, 1998.

CHAPTER 257
(S.B. No. 1437)

AN ACT

RELATING TO CHILD PROTECTION; AMENDING SECTION 16-1601, IDAHO CODE, TO PROVIDE THAT THE HEALTH AND SAFETY OF THE CHILD IS THE PRIMARY CONCERN IN CHILD PROTECTION PROCEEDINGS; AMENDING SECTION 16-1605, IDAHO CODE, TO PROVIDE THAT REASONABLE EFFORTS TO PREVENT THE PLACEMENT OF A CHILD ARE NOT REQUIRED UNDER SPECIFIED CIRCUMSTANCES; AMENDING SECTION 16-1610, IDAHO CODE, TO SPECIFY CONDI-

TIONS WHEN REASONABLE EFFORTS WERE NOT REQUIRED AND TO PROVIDE THAT THE DEPARTMENT MAY DEVELOP CASE PLANS WHICH CONCURRENTLY PURSUE REUNIFICATION AND PLACEMENT OF A CHILD FOR ADOPTION OR WITH A GUARDIAN, AND TO SEEK MAINTENANCE OF SIGNIFICANT RELATIONSHIPS; AMENDING SECTION 16-1615, IDAHO CODE, TO PROVIDE THE TIME FOR HEARINGS AND TO PROVIDE THAT THE DEPARTMENT SHALL JOIN IN ANY PETITION FOR TERMINATION OF PARENTAL RIGHTS OF CHILDREN IN THE CUSTODY OF THE DEPARTMENT, AND MAY CONCURRENTLY APPROVE THE ADOPTION; AMENDING SECTION 16-1623, IDAHO CODE, TO PROVIDE THAT THERE IS A REBUTTABLE PRESUMPTION THAT PERMANENCY PLANNING WILL BEGIN FOR ANY CHILD WHO IS IN THE CARE OF THE DEPARTMENT FOR A PERIOD OF FIFTEEN OF THE PREVIOUS TWENTY-TWO MONTHS; AND AMENDING SECTION 16-2010, IDAHO CODE, TO PROVIDE THE TIME FOR HEARINGS.

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. At all times the health and safety of the child shall be the primary concern. 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 one (1) or more of 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;

(3) clarify for the purposes of this act the rights and responsibilities of parents with joint legal or joint physical custody of children at risk.

SECTION 2. 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 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.

(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.

(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.

(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, or that reasonable efforts to prevent placement were not required as the parent subjected the child to aggravated circumstances.

(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 3. 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:

(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;

(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; or

(iv) reasonable efforts were not required as the parent had subjected the child to aggravated circumstances as determined by the court including, but not limited to: abandonment; torture; chronic abuse; sexual abuse; committed murder; committed voluntary manslaughter; aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; committed a felony assault that results in serious bodily injury to any child of the parent; or the parental rights of the parent to a sibling have been terminated involuntarily and that as a result, a hearing to determine the permanent future plan for this child will be held within thirty (30) days of this determination. Reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child. Whenever possible, the child's connections to the community, including individuals with a significant relationship to the child, religious organizations and community activities, will be maintained through the transition.

(3) The court shall make written findings that reasonable efforts to reunify are not required as the parent had subjected the child to aggravated circumstances including, but not limited to: abandonment; torture; chronic abuse; sexual abuse; committed murder; committed voluntary manslaughter; aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; committed a felony assault that results in serious bodily injury to the child or another child of the parent; or the parental rights of the parent to a sibling have been terminated voluntarily.

(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 or may concurrently contain reasonable efforts to place the child for adoption or with a legal guardian; 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~~ permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the state will file a petition for termination of parental rights, or referred for legal guardianship or, in cases where compelling reasons exist that it would not be in the best interest of the child to terminate parental rights, placed in another permanent living arrangement.

(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 4. That Section 16-1615, Idaho Code, be, and the same is hereby amended to read as follows:

16-1615. TERMINATION OF PARENT-CHILD RELATIONSHIP. If the child has been placed in the custody of the department or under its protective supervision pursuant to section 16-1610, Idaho Code, the department may~~, after three (3) months,~~ petition the court for termination of the parent and child relationship in accordance with chapter 20,

title 16, Idaho Code~~,-provided-that-no-petition-for-termination-of-the parent-and-child-relationship-shall-be-made-within-three-(3)-months-of a-prior-petition-for-such-termination~~. The department shall join as a party to the petition if such a petition to terminate is filed by another party; as well as to concurrently identify, recruit, process and approve a qualified family for adoption unless it is determined that such actions would not be in the best interest of the child, or the child is placed with a relative. If termination of parental rights is granted and the child is placed in the guardianship or legal custody of the department of health and welfare the court, upon petition, shall conduct a hearing as to the future status of the child within ~~eighteen~~ twelve (~~18~~2) months of the order of termination of parental rights, and every ~~eighteen~~ twelve (~~18~~2) months subsequently until the child is adopted or is in a placement sanctioned by the court.

SECTION 5. That Section 16-1623, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

(d) The department shall make periodic evaluation of all persons in its custody or under its supervision for the purpose of determining whether existing orders and dispositions in individual cases shall be modified or continued in force. Evaluations may be made as frequently as the department considers desirable and shall be made with respect to every person at intervals not exceeding six (6) months. Reports of evaluation made pursuant to this section shall be filed with the court which vested custody of the person with the department. Reports of evaluation shall be provided to persons having full or partial legal or physical custody of a child. Failure of the department to evaluate

a person or to reevaluate him within six (6) months of a previous examination shall not of itself entitle the person to a change in disposition but shall entitle him, his parent, guardian or custodian or his counsel to petition the court pursuant to section 16-1611, Idaho Code.

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

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

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

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

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

(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 depart-

ment 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 6. That Section 16-2010, Idaho Code, be, and the same is hereby amended to read as follows:

16-2010. DECREE. Every order of the court terminating the parent and child relationship or transferring legal custody or guardianship of the person of the child, or providing for protective supervision of the child, shall be in writing and shall recite the findings upon which such order is based, including findings pertaining to the court's jurisdiction.

a. If the court finds sufficient grounds exist for the termination of the parent and child relationship, it shall so decree and:

(1) Appoint an individual as guardian of the child's person, or

(2) Appoint an individual as guardian of the child's person and vest legal custody in another individual or in an authorized agency, or

(3) Appoint an authorized agency as guardian of the child's person and vest legal custody in such agency.

(4) The decree shall also reflect that the parent has been notified of the existence of the voluntary adoption registry, established in section 39-259A, Idaho Code.

The court shall also make an order fixing responsibility for the child's support. The parent and child relationship may be terminated with respect to one (1) parent without affecting the relationship between the child and the other parent.

b. Where the court does not order termination of the parent and child relationship, it shall dismiss the petition; provided, however, that where the court finds that the best interest of the child requires substitution or supplementation of parental care and supervision, it shall make an order placing the child under protective supervision, or vesting temporary legal custody in an authorized agency, fixing responsibility for temporary child support, and designating the period of time during which the order shall remain in effect.

c. If termination of parental rights is granted and the child is placed in the guardianship or legal custody of the department of health and welfare the court, upon petition, shall conduct a hearing as to the future status of the child within ~~eighteen~~ twelve (~~18~~2) months of the order of termination of parental rights, and every ~~eighteen~~ twelve (~~18~~2) months subsequently until the child is adopted or is in a placement sanctioned by the court.

Approved March 23, 1998.

CHAPTER 258
(S.B. No. 1469)

AN ACT

RELATING TO HIGHWAYS; AMENDING SECTION 40-310, IDAHO CODE, TO INCORPORATE REFERENCES TO LOCAL HIGHWAY JURISDICTIONS RATHER THAN CITIES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 40-502, IDAHO CODE, TO CLARIFY MAINTENANCE REQUIREMENTS FOR STATE HIGHWAYS WITHIN LOCAL HIGHWAY JURISDICTIONS.

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

SECTION 1. That Section 40-310, Idaho Code, be, and the same is hereby amended to read as follows:

40-310. POWERS AND DUTIES -- STATE HIGHWAY SYSTEM. The board shall:

(1) Determine which highways in the state, or sections of highways, shall be designated and accepted for the purpose of this title as a part of the state highway system.

(a) In determining which highways or section of highways shall be a part of the state highway system, the board shall consider the relative importance of each highway to cities, existing business, industry and enterprises and to the development of cities, natural resources, industry and agriculture and be guided by statistics on existing and projected traffic volumes. The board shall also consider the safety and convenience of highway users, the common welfare of the people of the state, and of the cities within the state and the financial capacity of the state of Idaho to acquire rights-of-way and to construct, reconstruct and maintain state highways. In making a determination, the board must, before it can abandon, relocate, or replace by a new highway, any highway serving or traversing any city, or the area in which the city is located, specifically find and determine that the benefits to the state of Idaho are greater than the economic loss and damage to the city affected. No highway serving or traversing any city shall be abandoned, relocated or replaced by a new highway serving the area in which a city is located without the board first holding a public hearing in that city. Written notice setting forth the action proposed to be taken by the board shall be served upon the mayor of any city affected, and upon all property owners from which acquisition of right-of-way is necessary and from which that property must be purchased, by certified or registered mail, and shall also be published in at least one (1) issue of a newspaper published and of general circulation in each city affected. If there is no newspaper published in the city, then a notice shall be posted in three (3) of the most public places in the city. The notice shall contain a statement of any action contemplated by the board affecting the city or property owner, and shall specify the time and place of the hearing. At the hearing a property owner from which right-of-way is necessary to be acquired and from which that property must be purchased, and the governing body of any

city affected may appear, voice objections to the action proposed to be taken by the board, and may present evidence and call witnesses in support of their objections. The board shall give consideration to the protests and objections and make a written decision determining whether or not the proposed action would be of greater benefit to the state of Idaho than the economic loss and damage resulting to the city. The board shall serve a written decision upon the governing body of any affected city and property owners within ten (10) days following the completion of the hearing, and no action shall be taken by the board prior to the service of the written decision.

(b) Within ten (10) days after the written decision has been served, an appeal may be taken from the decision by the person from whom the property must be purchased, the interested city, board of county commissioners, or highway district commissioners to the district court in and for the county in which the city affected by the order is located. The appeal shall be taken and perfected in the following manner:

1. The appellant shall file with the clerk of the district court of the proper county, and serve upon the board, notice specifying the grounds of appeal, and a certified copy of the decision of the board appealed from. The district court shall then have jurisdiction of the matter and may make any order or judgment that the equities of the case require. Upon the appeal being perfected, the appeal shall receive a preferential place on the calendar of the district court.

2. The appeal shall be heard and determined by the district court in a summary manner as in a suit in equity, and the trial shall be a trial de novo on the issues framed. The court may affirm, reverse, or modify the order appealed from and may issue injunctions whenever it appears necessary for the protection of the interests of any party to the appeal.

3. No bond or undertaking shall be required of any party appealing under any of the provisions of this section.

4. The filing fees required in the district court shall be the same as is provided for filing cases originally in the court.

(c) Any final order or judgment of the district court under this subsection shall be appealable to the supreme court of the state of Idaho within thirty (30) days following the entry of the final order or judgment in the same manner as appeals in civil actions are taken to the ~~S~~supreme ~~C~~court.

(d) The board shall take no action on any matter affecting any property owner from which right-of-way is necessary to be acquired or any city until either:

1. The time has elapsed for an appeal to the district court and no appeal has been filed; or

2. If an appeal has been taken to the district court, then until the time for appeal from its final order or judgment to the supreme court has elapsed and no appeal has been taken; or

3. If an appeal has been taken to the supreme court, then until the matter has been finally determined by that court.

(2) The board shall cause to be prepared and publicly displayed in a conspicuous place in their offices a complete map of the state highway system in which each section shall be identified by location, length and a control number. The map shall be of a suitable size and scale and contain data and information as deemed appropriate by the board. Periodically, and not less than once each year, the board shall revise and correct the map to record the changes in the designated state highway system resulting from additions, abandonments and relocations. Hand maps of the state highway system shall be issued periodically for public distribution.

(3) Abandon the maintenance of any highway and remove it from the state highway system, when that action is determined by the unanimous consent of the board to be in the public interest.

(4) Locate, design, construct, reconstruct, alter, extend, repair and maintain state highways, and plan, design and develop statewide transportation systems when determined by the board to be in the public interest.

(5) Establish standards for the location, design, construction, reconstruction, alteration, extension, repair and maintenance of state highways, provided that standards of state highways through ~~cities~~ local highway jurisdictions shall be coordinated with the standards in use for the systems of the respective ~~cities~~ local highway jurisdictions. The board shall make agreements with ~~incorporated cities~~ local highway jurisdictions having within their limits state highway sections in the category described in section 40-502, Idaho Code, and provide for an equitable division of the maintenance of those sections. The board may also, in the interest of economy and efficiency, arrange to have any or all of the state highway sections within ~~incorporated--cities~~ local highway jurisdictions maintained by those ~~cities~~ local highway jurisdictions, the cost of the work as limited by section 40-502, Idaho Code, to be reimbursed by the state.

(6) Cause to be made and kept, surveys, studies, maps, plans, specifications and estimates for the alteration, extension, repair and maintenance of state highways, and so far as practicable, of all highways in the state, and for that purpose to demand and to receive reports and copies of records from county commissioners, commissioners of highway districts, county engineers and directors of highways and all other highway officials within the state.

(7) Approve and determine the final plans, specifications and estimates for state highways and cause contracts for state highway work to be let by contract in the manner provided by law.

(8) Expend funds appropriated for construction, maintenance and improvement of state highways.

(9) Designate state highways, or parts of them, as controlled-access facilities and regulate, restrict or prohibit access to those highways to serve the traffic for which the facility is intended.

(10) Close or restrict the use of any state highway whenever the closing or restricting of use is deemed by the board to be necessary for the protection of the public or for the protection of the highway or any section from damage.

(11) Designate main traveled state highways as through highways. The traffic on through highways shall have the right-of-way over the traffic on any other highway intersecting with it, provided, that at

the intersection of two (2) through highways the board shall determine which traffic shall have the right-of-way.

(12) Furnish, erect and maintain standard signs on side highways directing drivers of vehicles approaching a designated through highway to come to a full stop before entering or crossing the through highway.

(13) Provide a right-of-way for and supervise the construction of side paths or sidewalks along regularly designated state highways outside the boundaries of incorporated cities and the expenditures for the construction of them may be made from the highway funds of the county or highway districts.

(14) Upon certification and requisition of an appropriate board, commission, governing body, or official head of any state institution and on the approval of the governor, showing the same to be necessary, construct, alter, repair, and maintain the roadways in, through, and about the grounds of state institutions. The construction, alteration, repair and maintenance shall be accomplished and paid for from the state highway account in accordance with the provisions of chapter 7, title 40, Idaho Code. This provision shall not be construed to divest any board, commission, governing body, or official head of an institution their constitutional or statutory powers.

SECTION 2. That Section 40-502, Idaho Code, be, and the same is hereby amended to read as follows:

40-502. MAINTENANCE OF STATE HIGHWAYS. All state highways shall be maintained by the department at state expense, including sections of state highways located within ~~the corporate limits of cities~~ local highway jurisdictions, except that in ~~cities~~ local highway jurisdictions where state highway sections are built to ~~city~~ local highway jurisdictions standards, such as with curbs, sidewalks and areas available for parking and bus stops, the department shall maintain at state expense only the width of traveled way required for the movement of through highway traffic. The width of traveled way to be maintained at state expense shall not exceed the width of the traveled way of the state highways approaching the incorporated areas.

Approved March 23, 1998.

CHAPTER 259
(S.B. No. 1468)

AN ACT

RELATING TO BEAUTIFICATION OF HIGHWAYS; AMENDING SECTION 40-1903, IDAHO CODE, TO PROVIDE THAT A COUNTY MAY ADOPT REASONABLE LAND USE OR ZONING REGULATIONS AFFECTING THE PLACEMENT AND OPERATION OF JUNKYARDS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 40-1903, Idaho Code, be, and the same is

hereby amended to read as follows:

40-1903. COUNTY ZONING ORDINANCES. It is the intention of the legislature to occupy the whole field of regulation by this chapter, except that nothing in this chapter prohibits enforcement of any or all of its provisions by persons designated to act by appropriate ordinances duly adopted by any county of this state, nor does this chapter prohibit the passage by any county of reasonable land use or zoning regulations affecting the placing of advertising displays <u>or the placement and operation of junkyards,</u> in accordance with the provisions of chapter 65, title 67, Idaho Code.

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

Approved March 23, 1998.

CHAPTER 260
(S.B. No. 1312)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-420, IDAHO CODE, TO ESTABLISH AN IDAHO SNOWMOBILE LICENSE PLATE PROGRAM; 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 <u>NEW SECTION,</u> to be known and designated as Section 49-420, Idaho Code, and to read as follows:

49-420. IDAHO SNOWMOBILE PLATES. (1) On and after January 1, 1999, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and upon department approval receive special Idaho snowmobile license plates in lieu of regular license plates. Availability of Idaho snowmobile license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Twenty-five dollars ($25.00) of the initial fee and fifteen dollars ($15.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Ten dollars ($10.00) of each initial

fee and ten dollars ($10.00) of each renewal fee shall be deposited by the state treasurer in the Idaho department of parks and recreation state snowmobile account established pursuant to section 67-7106, Idaho Code.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho snowmobile license plate shall be of a color and design comparable to the standard issue of license plates with blue numerals on a red, white and blue background, except that the word "Idaho" shall appear on each plate and the county designator shall be omitted to provide for distinguishing designs and slogans, acceptable to the Idaho state snowmobile association, to be added to the plate. The design shall be approved by the department and shall utilize a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho state snowmobile association.

(5) Sample Idaho snowmobile license plates may be purchased for a fee of thirty dollars ($30.00), twelve dollars ($12.00) of which shall be deposited in the state highway account and eighteen dollars ($18.00) of which shall be deposited in the state snowmobile account within the department of parks and recreation. No additional fee shall be charged for personalizing sample plates.

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

Approved March 23, 1998.

CHAPTER 261
(H.B. No. 510, As Amended)

AN ACT

RELATING TO PROFESSIONAL-TECHNICAL ADDED COST UNITS; PROVIDING LEGISLATIVE INTENT; AND AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1002G, IDAHO CODE, TO ALLOW SCHOOL DISTRICTS TO ESTABLISH PROFESSIONAL-TECHNICAL SCHOOLS THAT QUALIFY FOR FUNDING DISTRIBUTED THROUGH THE STATE BOARD OF VOCATIONAL EDUCATION, TO PROVIDE FOR THE AMOUNT OF FUNDING AND TO PROVIDE QUALIFICATION CRITERIA.

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

SECTION 1. LEGISLATIVE INTENT. There is growing consensus that public schools need to better adapt to today's workplace demands by providing curriculum and experiences that closely align themselves to the reality of the workplace. The emerging professional-technical

skills center approach has been shown to accomplish this end. These schools are intended to serve students of all ability levels, including the gifted and talented. Courses are typically aligned with higher education and have a field experience component. Equipment is more attuned to current industry standards and students from more than one high school access the centers. These centers always exceed the costs associated with a "regular" high school and this factor has discouraged their widespread utilization. Idaho is no exception. This act provides a modest increase in per student funding over the regular secondary school units. It is the intent of the legislature in providing this increase to help cover the additional skill center costs of lower teacher-pupil ratios, transportation, equipment and field experience supervision.

SECTION 2. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1002G, Idaho Code, and to read as follows:

33-1002G. PROFESSIONAL-TECHNICAL SCHOOL ADDED COST UNITS. School districts may establish professional-technical schools that qualify for funding appropriated for the specific purpose of supporting the added cost of professional-technical schools. These funds will be appropriated to the state board for vocational education, to be expended by the division of vocational education. The amount of the professional-technical school added cost unit would be calculated as an additional .33 secondary units based on full-time equivalent average daily attendance at an approved professional-technical school. In order for a school to qualify for funding as a professional-technical school, it must make application to the division of vocational education on or before the first Friday in July for the following fiscal year. For fiscal year 99, applications must be made by May 1. All school programs must have a professional-technical component and meet at least four (4) of the five (5) following criteria:

(1) The school serves students from two (2) or more high school attendance zones with a minimum of fifteen percent (15%) of the total student body residing in attendance zones apart from the attendance zone of the majority of students.

(2) The school offers a majority of its class offerings as dual credit opportunities in conjunction with an accredited institution of higher education.

(3) All school programs involve at least one (1) supervised field experience.

(4) The school is administered and funded as a distinct school separate from schools that qualify for computation as regular secondary support units.

(5) The school is to be located at a separate site from regular high school facilities.

Hardship exemptions for the separate site requirement may be granted by the state board of education.

For funding purposes, students in attendance at a qualifying professional-technical school will be reported in full or half days. The state board of education will develop rules that will determine funding in instances where students attend a professional-technical school on a regular basis, but in increments of time that total less than 2.5 hours per day.

Approved March 23, 1998.

CHAPTER 262
(H.B. No. 829)

AN ACT

RELATING TO THE IDAHO POTATO COMMISSION; AMENDING SECTION 9-340, IDAHO CODE, TO PROVIDE THAT ACTIVE INVESTIGATIVE RECORDS AND TRADEMARK USAGE AUDITS AND PURCHASE AND SALES INFORMATION SUBMITTED TO THE IDAHO POTATO COMMISSION ARE EXEMPT FROM DISCLOSURE UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE APPLICATION 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 9-340, Idaho Code, be, and the same is hereby amended to read as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Exemption under state or federal law or court rule.

(a) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(b) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the Idaho supreme court, but only to the extent that confidentiality is provided under such rules, and any drafts or other working memoranda related to judicial decision-making, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(2) Law enforcement records, investigatory records of agencies, worker's compensation.

(a) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(b) Juvenile records of a person maintained pursuant to chapter 5, title 20, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a

legitimate interest in the protection, welfare and treatment of the juvenile. If the juvenile is fourteen (14) years or older and is adjudicated guilty of an offense which would be a felony if committed by an adult, the name, offense of which the juvenile was adjudicated and disposition of the court shall be subject to disclosure. Additionally, facts contained in any records of a juvenile maintained under chapter 5, title 20, Idaho Code, shall be furnished upon request to any school district where the juvenile is enrolled or is seeking enrollment.

(c) Records of the department of correction or the commission of pardons and parole to the extent that disclosure thereof would interfere with the secure and orderly conduct of their operations, or the rehabilitation of any person in the custody of the department of correction or on parole, or would substantially prejudice or prevent the carrying out of the functions of the department of correction or the commission of pardons and parole if the public interest in confidentiality clearly outweighs the public interest in disclosure. Records exempt from disclosure shall include, but not be limited to, those containing the names and addresses of witnesses or victims or those containing information identifying victims or witnesses.

(d) Records of the sheriff or department of law enforcement received or maintained pursuant to section 18-3302, Idaho Code, relating to an applicant or licensee.

(e) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

(f) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(g) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(h) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(i) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(ii) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C.

12112, or other statutory limitations, who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(iii) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(iv) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction.

(3) Privacy, personnel records, personal information, health records, professional discipline.

(a) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(b) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(c) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(d) Records of a personal nature as follows:

(i) Records of personal debt filed with a public agency pursuant to law;

(ii) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(iii) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

(iv) Records, with regard to the ownership of, or security interests in, registered public obligations;

(v) Vital statistics records;

(vi) Except as provided in this subsection, all information provided to a law enforcement agency for sex offender registration pursuant to the provisions of section 18-8306, Idaho Code:

1. Such information shall be available upon request to a law enforcement agency; and

2. The information provided pursuant to the provisions of subsections (1) and (3) of section 18-8306, Idaho Code, shall be provided to any person upon written request. Such written request shall include the name and either date of birth or address of the person for whom the information is requested.

(e) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(f) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

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

(h) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency pursuant to a statutory requirement for licensing, certification, permit or bonding.

(i) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, com-

mission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

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

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

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

(m) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(4) Trade secrets, production records, appraisals, bids, proprietary information.

(a) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(i) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(ii) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(b) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

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

(d) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(e) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial insti-

tutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(f) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(g) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(h) Financial statements and business information and reports submitted by a legal entity to a port district organized under title 70, Idaho Code, in connection with a business agreement, or with a development proposal or with a financing application for any industrial, manufacturing, or other business activity within a port district.

(i) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided, however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

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

(k) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency.

(l) Records of laboratory test results provided by or retained by the department of agriculture's quality assurance laboratory.

Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(m) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

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

(o) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

(i) The original data including, but not limited to, numbers, text, voice, graphics and images;

(ii) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(iii) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

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

(5) Archaeological, endangered species, libraries, legislative, test keys, miscellaneous exemptions.

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

(b) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(c) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(d) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(e) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(f) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative services office by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

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

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

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

Approved March 23, 1998.

CHAPTER 263
(S.B. No. 1379, As Amended in the House)

AN ACT

RELATING TO THE BIG PAYETTE LAKE MANAGEMENT PLAN; ACCEPTING THE BIG PAYETTE LAKE MANAGEMENT PLAN AS ESTABLISHED AND APPROVED BY THE BIG PAYETTE LAKE WATER QUALITY COUNCIL; AND PROVIDING LEGISLATIVE INTENT.

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

SECTION 1. Pursuant to the requirements of Section 39-6611, Idaho Code, the Legislature of the State of Idaho does hereby accept the Big Payette Lake Management Plan, as established and approved by the Big Payette Lake Water Quality Council on December 1, 1997.

SECTION 2. It is the intent of the Legislature, with regard to

the Big Payette Lake Management Plan, that when a minimum stream flow is contemplated, the minimum stream flow must be gained under the provisions of Sections 42-1501 through 42-1505, Idaho Code.

Approved March 24, 1998.

CHAPTER 264
(S.B. No. 1496)

AN ACT

RELATING TO THE IDAHO ELECTRONIC SIGNATURE AND FILING ACT; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2351, IDAHO CODE, TO PROVIDE A SHORT TITLE; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2352, IDAHO CODE, TO PROVIDE A DECLARATION OF PURPOSE; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2353, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2354, IDAHO CODE, TO AUTHORIZE AND PROVIDE REQUIREMENTS FOR ELECTRONIC SIGNATURES; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2355, IDAHO CODE, TO AUTHORIZE AND PROVIDE REQUIREMENTS FOR ELECTRONIC COMMUNICATIONS FILED WITH OR ISSUED BY A PUBLIC AGENCY; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2356, IDAHO CODE, TO REQUIRE THE ADOPTION OF RULES OR POLICIES BEFORE A PUBLIC AGENCY MAY ACCEPT OR USE ELECTRONIC SIGNATURES OR ACCEPT OR ISSUE ELECTRONIC COMMUNICATIONS; AND AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2357, IDAHO CODE, TO PROVIDE THAT THE ACT DOES NOT REQUIRE AGENCIES TO ACCEPT OR USE ELECTRONIC SIGNATURES OR ACCEPT OR ISSUE ELECTRONIC COMMUNICATIONS.

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

SECTION 1. That Chapter 23, 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 67-2351, 67-2352, 67-2353, 67-2354, 67-2355, 67-2356 and 67-2357, Idaho Code, and to read as follows:

67-2351. SHORT TITLE. This act, comprised of sections 67-2351, 67-2352, 67-2353, 67-2354, 67-2355, 67-2356 and 67-2357, Idaho Code, shall be known and may be cited as the "Idaho Electronic Signature and Filing Act."

67-2352. DECLARATION OF PURPOSE. The legislature finds that advances in information technology and telecommunications have increased the speed and expanded the ease by which information can be processed and transferred. These advances afford significant opportunities to state and local government to deliver prompt and efficient services to Idaho citizens and businesses, and in particular have made viable the electronic filing and issuing of documents by and with

state and local agencies. The legislature wishes to promote effective on-line government by encouraging state and local government to conduct business using electronic media. Authorizing the use and recognizing the validity of electronic signatures and the electronic filing and issuing of documents by and with government agencies will promote the delivery and use of on-line government.

67-2353. DEFINITIONS. As used in this act:

(1) "Communication" means any written filing, registration, recording, certificate, notice, order, pleading, document or other written communication.

(2) "Electronic signature" means any computer or electronically generated identifier that is intended by the person using it to have the same force and effect as a manual signature.

(3) "Local agency" means a county, city, school district, municipal corporation, district, public health district, political subdivision or any agency thereof, or any committee of a local agency, or any combination thereof.

(4) "Public agency" means any state or local agency as defined in this section.

(5) "State agency" means every state agency, officer, department, division, bureau, commission and board or any committee of a state agency including those in the legislative or judicial branch, except the military division.

67-2354. ELECTRONIC SIGNATURES -- AUTHORIZED -- REQUIREMENTS. In any communication filed with or issued by any public agency, in which a signature is required or used, any signing party may affix a signature by use of an electronic signature that complies with the requirements of this section. The use of an electronic signature shall be permitted and have the full force and effect of a manual signature only if the electronic signature satisfies the following requirements:

(1) It is unique to the person using it;

(2) It is capable of verification; and

(3) It conforms to applicable rules, regulations, ordinances, resolutions, guidelines or policies adopted, promulgated, passed or established by the public agency pursuant to and in accordance with section 67-2356, Idaho Code.

67-2355. ELECTRONIC COMMUNICATIONS -- PUBLIC AGENCIES -- SAME EFFECT AS PAPER. Any communication filed with or issued by any public agency may be filed or issued electronically and such communication shall be given the full force and effect of a paper communication if:

(1) The electronic communication is in a format approved by the public agency accepting or issuing it;

(2) If the communication is an electronic filing or recording, the public agency receiving the communication agrees to accept such communication electronically and such communication meets the applicable requirements of section 9-328(1), Idaho Code, (state officers) or section 9-331A(1), Idaho Code, (county officers), including, but not limited to, being secure during transmittal;

(3) If a signature is required on the communication by any statute, rule or regulation, or other applicable law, an electronic signa-

ture on the communication conforms to the requirements of this act; and

(4) The filing or issuing conforms to applicable rules, regulations, ordinances, resolutions, guidelines or policies adopted, promulgated, passed or established by the public agency pursuant to and in accordance with section 67-2356, Idaho Code.

67-2356. PUBLIC AGENCY RULES. Prior to accepting or using electronic signatures, or accepting or issuing communications electronically:

(1) A state agency shall adopt rules regarding such acceptance, use or issuing. If a state agency does not have authority to adopt rules, the state agency shall adopt guidelines or establish policies, as applicable, regarding such acceptance, use or issuing.

(2) A local agency shall adopt, promulgate or pass rules, regulations, ordinances or resolutions, as applicable, regarding such acceptance, use, or issuing.

(3) In adopting, promulgating, passing or establishing such rules, regulations, ordinances, resolutions, guidelines or policies, the public agency may seek the advice of public and private entities. Such rules, regulations, ordinances, resolutions, guidelines or policies shall incorporate, satisfy and be in accordance with any applicable standards established by the information technology resource management council pursuant to section 67-5745C, Idaho Code.

67-2357. OPTION OF AGENCY. Nothing in this act shall require any public agency to use or permit the use of an electronic signature, to accept communications filed electronically or to issue communications electronically. Nothing in this act shall prevent a public agency from continuing to accept or use electronic signatures or from continuing to accept or issue communications electronically if such public agency is currently doing so; provided however, that upon the establishment by the information technology resource management council of standards as provided for in section 67-2356, Idaho Code, such public agency shall ensure, within a reasonable time, that its use, acceptance or issuing is in accordance with such standards.

Approved March 24, 1998.

CHAPTER 265
(S.B. No. 1349)

AN ACT

RELATING TO MOTOR VEHICLE REGISTRATIONS FOR RESIDENTS AND NONRESIDENTS; AMENDING SECTION 49-432, IDAHO CODE, TO DELETE REGISTRATIONS BASED ON WEIGHT OF VEHICLE AND MILLS PER MILE, TO PROVIDE ISSUANCE OF NINETY-SIX HOUR TRIP PERMITS AND FUEL PERMITS FOR RESIDENTS AND NONRESIDENTS, TO PROVIDE FOR MOVEMENT OF A VEHICLE BETWEEN LESSEE FLEETS AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 49-433, IDAHO CODE; AND REPEALING CHAPTER 11, TITLE 49, IDAHO CODE.

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

SECTION 1. That Section 49-432, Idaho Code, be, and the same is hereby amended to read as follows:

49-432. TEMPORARY REGISTRATION ~~BY~~ FOR RESIDENTS AND NONRESIDENTS -- FEES. (1) ~~All motor vehicles, or combination of vehicles owned by nonresidents and operated in Idaho shall be subject to the same fees as are required with respect to like vehicles operated by residents of this state.~~

~~Vehicles of nonresidents may be operated without the payment of any license, use or registration fees to the extent that an exemption is provided in agreements or regulations for reciprocal privileges issued under and pursuant to the provisions of section 49-201, Idaho Code. If the nonresident's state of residence grants temporary trip permit privilege in that state for vehicles from the state of Idaho, the nonresident operator of a vehicle or for motor vehicles or combinations of vehicles owned by Idaho residents and operated in this state, may in lieu of full licensing and registration under the laws of this state, obtain a temporary trip permit from the department authorizing operation of any vehicle or combination of vehicles in the state for a period not to exceed ninety six (96) hours.~~

~~There shall be a base issuance fee of twelve dollars ($12.00) per trip permit on any vehicle or combination of vehicles over eight thousand (8,000) pounds gross weight in addition to the following fees which shall be paid on the maximum gross weight of the vehicle or combination of vehicles:~~

~~Maximum Gross Weight of Vehicle or Combination of Vehicles~~	~~Fee Schedule Mills Per Mile~~
~~16,001-26,000~~	~~24.75~~
~~26,001-40,000~~	~~35.80~~
~~40,001-50,000~~	~~44.20~~
~~50,001-60,000~~	~~54.25~~
~~60,001-80,000~~	~~78.95~~
~~over 80,000~~	~~116.65~~

When a vehicle or combination of vehicles subject to registration is to be moved upon the public highways in the state of Idaho, the department may issue a trip permit in lieu of registration for any vehicle or combination of vehicles upon the payment of a fee as set forth in the following schedule:

(a) Ninety-six (96) hour trip permit
Single vehicle.....$25.00
Combination of vehicles $50.00
(b) Fuel permit $25.00

(2) A temporary trip permit shall be in a form, and issued under rules ~~and regulations~~ adopted by the board, and shall be displayed at all times while the vehicle is being operated on the highways by posting the permit upon the windshield of each vehicle or in another prominent place, where it may be readily legible.

(3) The department may select vendors to serve as agents on state highways for the purpose of selling trip permits where fixed ports of

entry do not adequately serve a respective highway entering the state. The vendor shall be remunerated at the rate of two dollars ($2.00) per permit sold, and he shall collect the fees specified in this section, and pay the fees to the department. The vendor shall guarantee payment by giving a bond to the state in a sum as shall be fixed by the board, the premium on the bond to be paid by the department.

(4) An owner-operator vehicle moving between lessee fleets where the vehicle registration was issued in the name of the former lessee, shall be eligible for a ninety-six (96) hour trip permit for movement from the point of entry into the state to the destination of the new lessee's place of business.

SECTION 2. That Section 49-433, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 11, Title 49, Idaho Code, be, and the same is hereby repealed.

Approved March 24, 1998.

CHAPTER 266
(S.B. No. 1351, As Amended)

AN ACT

RELATING TO PENALTIES FOR VIOLATION OF MOTOR VEHICLE WEIGHT, SPEED AND TIRE REGULATIONS; AMENDING SECTION 49-1013, IDAHO CODE, TO PROVIDE THAT PENALTIES FOR VIOLATIONS OF SECTION 49-1005, IDAHO CODE, ARE SUBJECT TO THE SLIDING SCALE SCHEDULE OF PENALTIES AS PROVIDED FOR OTHER OVERWEIGHT VIOLATIONS 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 49-1013, Idaho Code, be, and the same is hereby amended to read as follows:

49-1013. PENALTIES FOR VIOLATIONS. (1) It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this chapter, except that violations of law as specified in paragraphs (a), (b) and (c) of subsection (3) of this section shall constitute an infraction.

(2) Persons convicted of violations of the provisions of sections 49-1003 and 49-1005~~6~~ through 49-1012, Idaho Code, shall be subject to punishment by a fine of not to exceed three hundred dollars ($300) or by imprisonment in the county jail for not more than thirty (30) days or by a combination of such fine and imprisonment.

(3) Persons convicted of violations of the provisions of sections 49-1001, 49-1002, ~~and~~ 49-1004, and 49-1005, Idaho Code, shall be subject to a penalty as prescribed herein:

(a) One (1) pound through one thousand (1,000) pounds overweight shall be five dollars ($5.00) and shall constitute an infraction.

(b) One thousand one (1,001) pounds through two thousand (2,000) pounds overweight shall be fifteen dollars ($15.00) and shall constitute an infraction.

(c) Two thousand one (2,001) pounds through four thousand (4,000) pounds overweight shall be twenty-five dollars ($25.00) and shall constitute an infraction.

(d) Four thousand one (4,001) pounds through fifteen thousand (15,000) pounds overweight shall be twenty-five dollars ($25.00) plus $.1341 per pound for each additional pound over four thousand (4,000) pounds overweight.

(e) Fifteen thousand one (15,001) pounds through twenty thousand (20,000) pounds overweight shall be one thousand five hundred dollars ($1,500) plus twenty cents ($.20) per pound for each additional pound over fifteen thousand (15,000) pounds overweight.

(f) Twenty thousand one (20,001) pounds and greater shall be two thousand five hundred dollars ($2,500) plus thirty cents ($.30) per pound for each additional pound over twenty thousand (20,000) pounds overweight.

(g) In addition to the penalties specified in this subsection, one hundred fifty dollars ($150) for failure to deploy a variable load suspension axle which results in adjacent axles exceeding allowable weight by two thousand one (2,001) pounds or more.

(4) Persons convicted of or receiving an infraction judgment for violating two (2) or more of the provisions of sections 49-1001, 49-1002 or 49-1004, Idaho Code, at any one (1) time shall be assessed the full amount of the penalty for the primary violation. In addition to the assessment of the penalty for the primary violation, the person convicted of or receiving an infraction judgment shall be assessed a penalty of ten dollars ($10.00) for each additional misdemeanor conviction or five dollars ($5.00) for each additional infraction judgment for violations of section 49-1001, 49-1002 or 49-1004, Idaho Code, committed at the same time.

(5) All moneys collected as a result of the penalties prescribed in subsections (3) and (4) of this section, shall be deposited into the highway distribution account.

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 24, 1998.

CHAPTER 267
(S.B. No. 1353)

AN ACT

RELATING TO THE IDAHO NONPROFIT CORPORATION ACT; AMENDING SECTION 30-3-2, IDAHO CODE, TO PROVIDE FOR AN EXCEPTION TO THE REQUIREMENTS CONTAINED IN THE SECTION FOR EXECUTION OF A DOCUMENT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 30-3-4, IDAHO CODE, TO DELETE AND ADD CERTAIN FILING FEES; AMENDING SECTION 30-3-12,

IDAHO CODE, TO PROVIDE FOR ELECTRONIC TRANSMISSION OF NOTICE; AMENDING SECTION 30-3-29, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING PART 1, CHAPTER 3, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-3-115A, IDAHO CODE, TO PROVIDE GROUNDS FOR ADMINISTRATIVE DISSOLUTION BY THE SECRETARY OF STATE; AMENDING PART 1, CHAPTER 3, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-3-115B, IDAHO CODE, TO PROVIDE THE PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION; AMENDING PART 1, CHAPTER 3, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-3-115C, IDAHO CODE, TO PROVIDE FOR REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION; AMENDING PART 1, CHAPTER 3, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-3-115D, IDAHO CODE, TO PROVIDE FOR APPEAL FROM THE SECRETARY OF STATE'S DENIAL OF REINSTATEMENT; REPEALING SECTION 30-3-127, IDAHO CODE; AMENDING PART 1, CHAPTER 3, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-3-127, IDAHO CODE, TO PROVIDE GROUNDS FOR REVOCATION OF A CERTIFICATE OF AUTHORITY OF A FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE; AMENDING SECTION 30-3-128, IDAHO CODE, TO PROVIDE FOR A NOTICE OF REVOCATION OF A CERTIFICATE OF AUTHORITY, TO PROVIDE THE PROCEDURE FOR SERVING THE NOTICE UPON THE FOREIGN CORPORATION AND TO PROVIDE FOR SERVICE OF PROCESS ON A FOREIGN CORPORATION WHOSE CERTIFICATE OF AUTHORITY HAS BEEN REVOKED; AMENDING SECTION 30-3-129, IDAHO CODE, TO REQUIRE FILING OF AN APPEAL FROM A REVOCATION OF A CERTIFICATE OF AUTHORITY IN THE FOURTH DISTRICT COURT AND TO PROVIDE FOR FILING THE NOTICE OF APPEAL WITHIN THIRTY DAYS AFTER RECEIPT OF THE NOTICE OF REVOCATION; AMENDING SECTION 30-3-136, IDAHO CODE, TO PROVIDE THE PERSONS AUTHORIZED TO EXECUTE THE ANNUAL REPORT AND TO PROVIDE THE TIME FOR FILING THE REPORT; AND REPEALING SECTIONS 30-3-137, 30-3-138, 30-3-139, 30-3-140 AND 30-3-141, IDAHO CODE.

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

SECTION 1. That Section 30-3-2, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-2. FILING REQUIREMENTS. (1) A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the secretary of state.

(2) This act must require or permit filing the document in the office of the secretary of state.

(3) The document must contain the information required by this act. It may contain other information as well.

(4) The document must be typewritten or printed.

(5) The document must be in the English language. However, a corporate name need not be in English if written in English letters or arabic or roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

(6) Except as otherwise permitted by section 30-3-136, Idaho Code, t~~T~~he document must be executed:

(a) By the presiding officer of its board of directors of a

domestic or foreign corporation, its president, or by another of its officers;

(b) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee or other court-appointed fiduciary, by that fiduciary.

(7) The person executing a document shall sign it and state beneath or opposite the signature his or her name and the capacity in which he or she signs. The document may, but need not, contain:

(a) The corporate seal;

(b) An attestation by the secretary or an assistant secretary; or

(c) An acknowledgement, verification or proof.

(~~2~~8) The document must be delivered to the office of the secretary of state for filing and must be accompanied by one (1) exact or conformed copy, except as provided in sections 30-3-32 and 30-3-124, Idaho Code, the correct filing fee, and any penalty required by this act or other law.

SECTION 2. That Section 30-3-4, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-4. FILING, SERVICE AND COPYING FEES. The secretary of state shall collect the following fees when the documents described in this subsection are delivered for filing:

(1) Articles of incorporation.....$30.00

(2) ~~Application for use of indistinguishable name.....$20.00~~

(~~3~~) Application for reserved name.....$20.00

(~~4~~3) Notice of transfer of reserved name.....$20.00

(~~5~~4) Application for registered name.....$30.00

(~~6~~5) Application for renewal of registered name.....$30.00

(~~7~~6) Corporation's statement of change of registered agent or registered office or both.....no fee

(~~8~~7) Agent's statement of change of registered office for each affected corporation.....no fee

(~~9~~8) Agent's statement of resignation.....no fee

(~~10~~9) Amendment of articles of incorporation.....$30.00

(~~11~~10) Restatement of articles of incorporation with amendments.....$30.00

(~~12~~11) Articles of merger.....$30.00

(~~13~~12) Articles of dissolution.....$30.00

(~~14~~13) ~~Certificate--of~~ Application for reinstatement following administrative dissolution.....$~~1~~30.00

(~~15~~14) Application for certificate of authority.....$30.00

(~~16~~15) Application for amended certificate of authority.....$30.00

(~~17~~16) Application for certificate of withdrawal.....$20.00

(~~18~~17) Certificate of revocation of authority to transact business.....no fee

(~~19~~18) Annual report.....no fee

(~~20~~19) Articles of correction.....$20.00

(~~21~~20) Certificate of existence or authorization.....$10.00

(~~22~~21) Any other document required or permitted to be filed by this act.....$20.00

(22) Filing any document relating to a nonprofit corporation when

the filing party requires the evidence of completion of filing to be returned within eight (8) hours, a surcharge of.....$ 8.00

SECTION 3. That Section 30-3-12, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-12. NOTICE. (1) Notice may be oral or written. Notice by electronic transmission is written notice.

(2) Notice may be communicated: in person; by telephone or voice mail; by telegraph, teletype or other ~~form of wire or wireless communication~~ electronic means; or by mail or private carrier; if these forms of personal notice are impracticable, notice may be communicated by publication for ten (10) days pursuant to section 60-109, Idaho Code.

(3) Oral notice is effective when communicated, if communicated in a comprehensible manner.

(4) Written notice, if in a comprehensible form, is effective at the earliest or the following:

(a) When received;

(b) Five (5) days after its deposit in the United States mail, as evidenced by sworn affidavit or postmark, if mailed correctly addressed and with first class postage affixed;

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee;

(d) When electronically transmitted to a member in a manner authorized by the members.

(5) Written notice is correctly addressed to a member of a domestic or foreign corporation if addressed to the member's address shown in the corporation's current list of members.

(6) A written notice or report delivered as part of a newsletter, magazine or other publication regularly sent to members shall constitute a written notice or report if addressed or delivered to the member's address shown in the corporation's current list of members, or in the case of members who are residents of the same household and who have the same address in the corporation's current list of members, if addressed or delivered to one of such members, at the address appearing on the current list of members.

(7) Written notice is correctly addressed to a domestic or foreign corporation authorized to transact business in this state, other than in its capacity as a member, if addressed to its registered agent or to its secretary at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.

(8) If section 30-3-50(2), Idaho Code, or any other provision of this act prescribes notice requirements for particular circumstances, those requirements govern. If articles or bylaws prescribe notice requirements, not inconsistent with this section or other provisions of this act, those requirements govern.

SECTION 4. That Section 30-3-29, Idaho Code, be, and the same is

hereby amended to read as follows:

30-3-29. REGISTERED NAME. Any corporation organized and existing under the laws of any state or territory of the United States may register its corporate name under this act, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered under this act.

Such registration shall be made by~~:~~

~~(1)~~--F~~f~~iling with the secretary of state:

(~~a~~1) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged; and

(~~b~~2) A certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations; and

(~~c~~3) Paying to the secretary of state a registration fee in the amount of ten dollars ($10.00).

Such registration shall be effective until the close of the calendar year in which the application for registration is filed.

SECTION 5. That Part 1, Chapter 3, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-3-115A, Idaho Code, and to read as follows:

30-3-115A. GROUNDS FOR ADMINISTRATIVE DISSOLUTION. The secretary of state may administratively dissolve a corporation under section 30-3-115B, Idaho Code, if:

(1) The corporation does not deliver its annual report to the secretary of state by the date on which it is due;

(2) The corporation is without a registered agent or registered office in this state for sixty (60) days or more;

(3) The secretary of state has credible information that the corporation has failed to notify the secretary of state within sixty (60) days after the occurrence that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued; or

(4) The corporation's period of duration stated in its articles of incorporation expires.

SECTION 6. That Part 1, Chapter 3, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-3-115B, Idaho Code, and to read as follows:

30-3-115B. PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLU-

TION. (1) If the secretary of state determines that one (1) or more grounds exist under section 30-3-115A, Idaho Code, for dissolving a corporation, he shall give notice of his determination to the corporation by first class mail addressed to its mailing address as indicated on its most recent annual report or, if the corporation has not yet filed an annual report, to its registered office.

(2) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days after receipt of the notice of determination, the secretary of state shall administratively dissolve the corporation by noting the fact of dissolution and the effective date thereof in his records. The secretary of state shall give notice of the dissolution to the corporation by first class mail addressed to its mailing address as indicated on its most recent annual report or, if the corporation has not yet filed an annual report, to its registered office.

(3) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under section 30-3-113, Idaho Code, and notify claimants under sections 30-3-114 and 30-3-115, Idaho Code.

(4) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

SECTION 7. That Part 1, Chapter 3, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-3-115C, Idaho Code, and to read as follows:

30-3-115C. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION. (1) A corporation administratively dissolved under section 30-3-115B, Idaho Code, may apply to the secretary of state for reinstatement within ten (10) years after the effective date of dissolution. The application must:

(a) Recite the name of the corporation and the date of its incorporation;

(b) State that the corporation applies for reinstatement;

(c) If the corporation's name or one deceptively similar thereto has been appropriated by another entity whose organizational documents are filed with the secretary of state, be accompanied either by a consent to the use of a deceptively similar name executed by the other entity or by articles of amendment by which the corporation adopts a new name which complies with the requirements of section 30-3-27, Idaho Code; and

(d) Be accompanied by a current annual report, appointment of registered agent or articles of amendment to extend the corporate existence, as appropriate to the reason for administrative dissolution.

(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the dissolution and prepare a certificate of reinstatement that recites the fact and

effective date of the reinstatement, file a copy thereof and return the original to the corporation.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

SECTION 8. That Part 1, Chapter 3, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-3-115D, Idaho Code, and to read as follows:

30-3-115D. APPEAL FROM DENIAL OF REINSTATEMENT. (1) If the secretary of state denies a corporation's application for reinstatement following administrative dissolution, he shall give the corporation written notice by first class mail that explains the reason or reasons for denial.

(2) The corporation may appeal the denial of reinstatement to the fourth district court, Ada County, Idaho, within thirty (30) days after receipt of the notice of denial. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's notice of dissolution, the corporation's application for reinstatement, and the secretary of state's notice of denial.

(3) The court may summarily order the secretary of state to reinstate the dissolved corporation or may take other action the court considers appropriate.

(4) The court's final decision may be appealed as in other civil proceedings.

SECTION 9. That Section 30-3-127, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Chapter 3, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-3-127, Idaho Code, and to read as follows:

30-3-127. GROUNDS FOR REVOCATION OF CERTIFICATE OF AUTHORITY. The secretary of state may commence a proceeding under section 30-3-128, Idaho Code, to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(1) The foreign corporation does not deliver its annual report to the secretary of state by the date on which it is due;

(2) The foreign corporation is without a registered agent or registered office in this state for sixty (60) days or more;

(3) The secretary of state has credible information that the foreign corporation has failed to notify the secretary of state within sixty (60) days of the occurrence that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued;

(4) The secretary of state has credible information that an incorporator, director, officer or agent of the foreign corporation

signed a document he knew was false in any material respect with intent that the document be delivered to the secretary of state for filing; or

(5) The secretary of state receives a duly authenticated certificate from the official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated, stating that it has been dissolved or has disappeared as a result of a merger.

SECTION 11. That Section 30-3-128, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-128. PROCEDURE AND EFFECT OF REVOCATION OF AUTHORITY OF FOREIGN CORPORATION. (1) If t~~T~~he secretary of state ~~upon--determining~~ determines that one (1) or more grounds exist under section 30-3-126~~7~~, Idaho Code, for revocation of a certificate of authority, he shall ~~serve-the-foreign-corporation-with-written-notice-of--that--determination--under-section-30-3-125,-Idaho-Code~~ give notice of his determination to the foreign corporation by first class mail addressed to its mailing address as indicated on its most recent annual report or, if the foreign corporation has not yet filed an annual report, to its registered office.

(2) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground for revocation determined by the secretary of state does not exist within sixty (60) days after ~~service--of the--notice-is-perfected-under-section-30-3-125,-Idaho-Code~~ receipt of the notice of determination, the secretary of state may revoke the foreign corporation's certificate of authority by ~~signing-a-certificate-of-revocation-that-recites-the-ground-or-grounds--for--revocation and--its-effective-date.--The-secretary-of-state-shall-file-the-original-of-the-certificate-and-serve-a-copy--on--the--foreign--corporation under--section--30-3-125,-Idaho-Code~~ noting the fact of revocation and the effective date thereof in his records. The secretary of state shall give notice of the revocation to the foreign corporation by first class mail addressed to its mailing address as indicated on its most recent annual report, or if the foreign corporation has not yet filed an annual report, to its registered office.

(3) The authority of a foreign corporation to transact business in this state ceases on the date shown on the ~~certificate-revoking~~ notice of revocation of its certificate of authority.

(4) ~~The--secretary---of---state's---revocation---of---a---foreign corporation's-certificate-of-authority-appoints-the-secretary-of-state the-foreign-corporation's-agent-for-service-of-process-in-any-proceeding--based-on-a-cause-of-action-that-arose-during-the-time-the-foreign corporation-was-authorized-to-transact-business-in-this-state.-Service of-process-on-the-secretary-of-state-under-this-subsection-is--service on-the-foreign-corporation.--Upon-receipt-of-process,-the-secretary-of state-shall-mail-a-copy-of-the-process-to-the-secretary-of-the-foreign corporation--at--its--principal-office-shown-in-its-most-recent-annual report-or-in-any-subsequent-communications-received-from-the--corporation--stating-the-current-mailing-address-of-its-principal-office,-or, if-none-are-on-file,-in-its-application-for-a-certificate-of-authority~~

Service of process on a foreign corporation whose certificate of authority has been revoked may be made upon its registered agent, if any, or pursuant to section 30-3-125, Idaho Code.

(5) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

SECTION 12. That Section 30-3-129, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-129. APPEAL FROM REVOCATION OF CERTIFICATE OF AUTHORITY OF FOREIGN CORPORATION. (1) A foreign corporation may appeal the secretary of state's revocation of its certificate of authority to the fourth district court, Ada County, Idaho, within thirty (30) days after ~~the service of the certificate~~ receipt of the notice of revocation. ~~is perfected under section 30-3-125, Idaho Code.~~ The foreign corporation appeals by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of authority and the secretary of state's certificate of revocation.

(2) The court may summarily order the secretary of state to reinstate the certificate of authority or may take any other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 13. That Section 30-3-136, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-136. ANNUAL REPORT FOR SECRETARY OF STATE. (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state an annual report ~~on~~ in a form prescribed and furnished by the secretary of state.

(2) The information in the annual report must be current on the date the annual report is executed on behalf of the corporation.

(3) The annual report shall be executed by one (1) of the persons identified in section 30-3-2, Idaho Code, or by another person who is authorized by the board of directors to execute the report. Execution of the annual report constitutes a representation that the person is authorized by the board of directors.

(4) The first annual report must be delivered to the secretary of state between July 1 and November ~~1~~30 of the state fiscal year (July 1 through June 30) following the ~~calendar~~ state fiscal year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual reports must be delivered to the secretary of state between July 1 and November ~~1~~30 of the following calendar years.

(~~4~~5) If an annual report does not contain the information required in this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required in this section and delivered to the secretary of state ~~not later than November 30~~ within thirty (30) days

after the effective date of notice, it is deemed to be timely filed.

SECTION 14. That Sections 30-3-137, 30-3-138, 30-3-139, 30-3-140 and 30-3-141, Idaho Code, be, and the same are hereby repealed.

Approved March 24, 1998.

CHAPTER 268
(S.B. No. 1354)

AN ACT

RELATING TO THE IDAHO LIMITED LIABILITY COMPANY ACT; AMENDING SECTION 53-604, IDAHO CODE, TO PROVIDE THAT THE BUSINESS OFFICE OF THE REGISTERED AGENT SHALL BE IDENTICAL WITH THE REGISTERED OFFICE, TO PROVIDE THE PROCEDURE FOR A NEW REGISTERED AGENT'S CONSENT TO APPOINTMENT, TO PROVIDE WHEN A CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT IS EFFECTIVE, TO DELETE CERTAIN REQUIREMENTS TO PROVIDE A REGISTERED AGENT'S ADDRESS AND TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 53-605, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 53-608, IDAHO CODE, TO DELETE THE REQUIREMENT FOR A SEPARATE LISTING OF A REGISTERED AGENT'S ADDRESS; AMENDING SECTION 53-613, IDAHO CODE, TO PROVIDE THE PERSON AUTHORIZED TO EXECUTE THE ANNUAL REPORT, TO DELETE OBSOLETE LANGUAGE AND TO PROVIDE THE DATE FOR FILING OF THE REPORT IF THE FILING DATE FALLS ON A WEEKEND; REPEALING SECTION 53-614, IDAHO CODE; AMENDING SECTION 53-641, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 53-642, IDAHO CODE, TO INCLUDE ADMINISTRATIVE DISSOLUTION BY THE SECRETARY OF STATE WITHIN THE CATEGORIES OF DISSOLUTION; AMENDING SECTION 53-643, IDAHO CODE, TO PROVIDE THAT THE COURT SHALL DIRECT THE WINDING UP AND LIQUIDATION OF THE COMPANY'S AFFAIRS AND THE NOTIFICATION OF CLAIMANTS AFTER ENTERING A DECREE OF DISSOLUTION AND TO PROVIDE FOR DELIVERY TO THE SECRETARY OF STATE AND FILING OF A CERTIFIED COPY OF THE DECREE; AMENDING CHAPTER 6, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-643A, IDAHO CODE, TO PROVIDE GROUNDS FOR ADMINISTRATIVE DISSOLUTION OF A LIMITED LIABILITY COMPANY BY THE SECRETARY OF STATE; AMENDING CHAPTER 6, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-643B, IDAHO CODE, TO PROVIDE THE PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION; AMENDING CHAPTER 6, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-643C, IDAHO CODE, TO PROVIDE FOR REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION; AMENDING SECTION 53-647, IDAHO CODE, TO PROVIDE FOR APPLICATION OF THE SECTION; AMENDING SECTION 53-655, IDAHO CODE, TO PROVIDE THE PROCEDURE FOR VOLUNTARY CANCELLATION OF REGISTRATION BY A FOREIGN LIMITED LIABILITY COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE; AMENDING CHAPTER 6, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-655A, IDAHO CODE, TO PROVIDE FOR ADMINISTRATIVE CANCELLATION OF REGISTRATION OF A FOREIGN LIMITED LIABILITY COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE; AMENDING CHAPTER 6, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-655B, IDAHO CODE, TO PROVIDE THE PRO-

CEDURE FOR AND EFFECT OF ADMINISTRATIVE CANCELLATION; AMENDING CHAPTER 6, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-655C, IDAHO CODE, TO PROVIDE FOR APPEAL FROM ADMINISTRATIVE CANCELLATION; AND AMENDING SECTION 53-665, IDAHO CODE, TO PROVIDE THE FEE FOR FILING AN APPLICATION FOR REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION, TO PROVIDE FOR FILING A CERTIFIED COPY OF A DECREE OF JUDICIAL DISSOLUTION AT NO FEE AND TO PROVIDE THE FEE FOR FILING AN APPLICATION FOR VOLUNTARY CANCELLATION OF REGISTRATION OF A FOREIGN LIMITED LIABILITY COMPANY.

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. The business office of the registered agent shall be identical with the registered office.

(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~~ If at any time after filing the articles of organization the limited liability company appoints a new registered agent, the new registered agent shall consent to the appointment either:

(a) By signing the annual report or the statement of change of registered office or registered agent by which the change is made; or

(b) In a writing which shall be kept available for inspection at the registered office.

(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 annual report or 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. ~~If a limited liability company has not appointed a 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 53-605, Idaho Code, be, and the same is hereby amended to read as follows:

53-605. NATURE OF BUSINESS. (1) A limited liability company may be organized under this chapter for any lawful purpose. If the purpose for which a limited liability company is organized or its activities make it subject to a special provision of law, the limited liability company shall also comply with that provision.

(2) Except as limited in the articles of organization or operating agreement, the limited liability company shall have and exercise all powers necessary or convenient to effect its purposes including the power to render professional services, if each member of a limited liability company who renders professional services in Idaho is licensed or registered to render those professional services pursuant to applicable Idaho law and section 53-61~~4~~5, Idaho Code.

SECTION 3. That Section 53-608, Idaho Code, be, and the same is hereby amended to read as follows:

53-608. ARTICLES OF ORGANIZATION. The articles of organization shall be set forth in a form prescribed by the secretary of state:

(1) A name for the limited liability company that satisfies the requirements of section 53-602, Idaho Code;

(2) The address of the registered office and the name ~~and business, residence, or mailing address~~ of the registered agent at that address, as required to be maintained by the provisions of section 53-604, Idaho Code;

(3) If management of the limited liability company is vested in a manager or managers, a statement to that effect;

(4) If the management of the limited liability company is vested in its members, the name and address of one (1) or more of the initial members of the limited liability company;

(5) If the management of the limited liability company is vested in a manager or managers, the name and address of one (1) or more of the initial managers of the limited liability company;

(6) If the limited liability company is a professional service limited liability company, the principal profession for which members are duly licensed or otherwise legally authorized to render professional services.

SECTION 4. 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~~ in a 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~~ for the limited liability company by a person authorized by the members if management is vested in the members, or by a person authorized by the managers if management is vested in the managers. Execution by such a person constitutes a representation that the authority was granted. If the limited liability company is in the hands of a receiver or trustee, it shall be executed on behalf of the limited liability company by such receiver or trustee. ~~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~~ next 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 5. That Section 53-614, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 53-641, Idaho Code, be, and the same is hereby amended to read as follows:

53-641. EVENTS OF DISSOCIATION. (1) A person ceases to be a member of a limited liability company upon the occurrence of one (1) or more of the following events:

(a) The member withdraws by voluntary act from the limited liability company as provided in subsection (3) of this section;

(b) This member ceases to be a member of the limited liability company as provided in section 53-638, Idaho Code;

(c) The member is removed as a member:

(i) In accordance with an operating agreement; or

(ii) Unless otherwise provided in writing in an operating agreement, when the member assigns all of his interest in the limited liability company, by an affirmative vote of a majority of the members who have not assigned their interests;

(d) Unless otherwise provided in writing in an operating agreement or by the written consent of all members at the time, the member (i) makes an assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) is adjudicated a bankrupt or insolvent; (iv) files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of this nature; or (vi) seeks, consents to, or acquiesces to the appointment of a trustee, receiver or liquidator of the member or of all or any substantial part of the member's properties;

(e) Unless otherwise provided in writing in an operating agreement or by the written consent of all members at the time, if within one hundred twenty (120) days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, the proceeding has not been dismissed, or if within one hundred twenty (120) days after the appointment without his consent or acquiescence of a trustee, receiver or liquidator of the member or of all or any substantial part of his properties, the appointment is not vacated or stayed or if within one hundred twenty (120) days after the expiration of any stay, the appointment is not vacated;

(f) Unless otherwise provided in writing in an operating agreement or by the written consent of all members at the time, in the

case of a member who is an individual;

(i) The member's death; or

(ii) The entry of an order by a court of competent jurisdiction adjudicating the member incompetent to manage his person or estate;

(g) Unless otherwise provided in writing in an operating agreement or by the written consent of all members at the time, in the case of a member who is a trust or is acting as a member by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee;

(h) Unless otherwise provided in writing in an operating agreement or by the written consent of all members at the time, in the case of a member that is a separate limited liability company, the dissolution and commencement of winding up of the separate limited liability company;

(i) Unless otherwise provided in writing in an operating agreement or by the written consent of all members at the time, in the case of a member that is a corporation, the filing of articles of dissolution or forfeiture of its corporate powers or right to do business;

(j) Unless otherwise provided in writing in an operating agreement or by the written consent of all members at the time, in the case of an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company; or

(k) In the case of a professional services limited liability company, restrictions or limitations are placed upon a member's ability to continue to render professional services as described in section 53-614<u>5</u>(5), Idaho Code.

(2) The members may provide in writing in an operating agreement for other events the occurrence of which shall result in a person ceasing to be a member of the limited liability company.

(3) Unless an operating agreement provides in writing that a member has no power to withdraw by voluntary act from a limited liability company, the member may do so at any time by giving thirty (30) days' written notice to the other members, or such other notice as is provided for in writing in an operating agreement. If the member has the power to withdraw but the withdrawal is a breach of an operating agreement, or the withdrawal occurs as a result of otherwise wrongful conduct of the member, the limited liability company may recover from the withdrawing member damages for breach of the operating agreement or as a result of the wrongful conduct, including the reasonable costs of obtaining replacement of the services the withdrawn member was obligated to perform and may offset the damages against the amount otherwise distributable to him, in addition to pursuing any remedies provided for in an operating agreement or otherwise available under applicable law. Unless otherwise provided in an operating agreement, in the case of a limited liability company for a definite term or particular undertaking, a withdrawal by a member before the expiration of that term is a breach of the operating agreement.

SECTION 7. That Section 53-642, Idaho Code, be, and the same is hereby amended to read as follows:

53-642. DISSOLUTION. A limited liability company is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

(1) At the time or upon the occurrence of events specified in writing in the articles of organization or an operating agreement;

(2) The written consent of all members;

(3) An event of dissociation of a member, unless:

(a) The business of the limited liability company is continued by the consent of all the remaining members on or before the 90th day following the occurrence of any such event; or

(b) Otherwise provided in writing in an operating agreement; ~~or~~

(4) Entry of a decree of judicial dissolution under section 53-643, Idaho Code; or

(5) Administrative dissolution by the secretary of state pursuant to section 53-643B, Idaho Code.

SECTION 8. That Section 53-643, Idaho Code, be, and the same is hereby amended to read as follows:

53-643. JUDICIAL DISSOLUTION. (1) On application by or for a member, the district court may decree dissolution of a limited liability company when it is established:

(~~1~~a) That the managers or members are deadlocked in the management of the limited liability company's affairs, and that irreparable injury to the limited liability company is being suffered or is threatened by reason thereof; or

(~~2~~b) That the acts of the managers or members in control of the limited liability company are illegal, oppressive or fraudulent and that irreparable injury to the limited liability company is being suffered or is threatened by reason thereof.

(2) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the limited liability company's business and affairs in accordance with section 53-644, Idaho Code, and the notification of claimants in accordance with sections 53-648 and 53-649, Idaho Code. The clerk of the court shall deliver a certified copy of the decree to the secretary of state, who shall file it.

SECTION 9. That Chapter 6, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-643A, Idaho Code, and to read as follows:

53-643A. GROUNDS FOR ADMINISTRATIVE DISSOLUTION. The secretary of state may administratively dissolve a limited liability company under section 53-643B, Idaho Code, if:

(1) The limited liability company does not deliver its annual report to the secretary of state by the date on which it is due;

(2) The limited liability company is without a registered agent or registered office in this state for sixty (60) days or more; or

(3) The secretary of state has credible information that the limited liability company has failed to notify the secretary of state within sixty (60) days after the occurrence that its registered agent

or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

SECTION 10. That Chapter 6, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-643B, Idaho Code, and to read as follows:

53-643B. PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION. (1) If the secretary of state determines that one (1) or more grounds exist under section 53-643A, Idaho Code, for dissolving a limited liability company, he shall give notice of his determination to the limited liability company by first class mail addressed to its principal office as indicated on its most recent annual report or, if it has not yet filed an annual report, to its registered office.

(2) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days after receipt of the notice of determination, the secretary of state shall administratively dissolve the limited liability company by noting the fact of dissolution and the effective date thereof in his records. The secretary of state shall give notice of the dissolution to the limited liability company by first class mail addressed to its principal office as indicated on its most recent annual report or, if it has not yet filed an annual report, to its registered office.

(3) A limited liability company administratively dissolved continues its existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under section 53-644, Idaho Code, and notify claimants under sections 53-648 and 53-649, Idaho Code.

(4) The administrative dissolution of a limited liability company does not terminate the authority of its registered agent.

SECTION 11. That Chapter 6, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-643C, Idaho Code, and to read as follows:

53-643C. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION. (1) A limited liability company administratively dissolved under section 53-643B, Idaho Code, may apply to the secretary of state for reinstatement within ten (10) years after the effective date of dissolution. The application must:

(a) Recite the name of the limited liability company and the date of its organization;

(b) State that the limited liability company applies for reinstatement;

(c) If the limited liability company's name or one deceptively similar thereto has been appropriated by another entity whose organizational documents are filed with the secretary of state, be accompanied either by a consent to the use of a deceptively similar name executed by the other entity or by articles of amendment

by which the limited liability company adopts a new name which complies with the requirements of section 53-602, Idaho Code; and

(d) Be accompanied by a current annual report or appointment of registered agent, as appropriate to the reason for administrative dissolution.

(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the dissolution and prepare a certificate of reinstatement that recites the fact and effective date of the reinstatement, file a copy thereof and return the original to the limited liability company.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited liability company resumes carrying on its business as if the administrative dissolution had never occurred.

SECTION 12. That Section 53-647, Idaho Code, be, and the same is hereby amended to read as follows:

53-647. ARTICLES OF DISSOLUTION. After the dissolution of the limited liability company pursuant to subsection (1), (2) or (3) of section 53-642, Idaho Code, the limited liability company shall file articles of dissolution with the secretary of state which set forth:

(1) The name of the limited liability company;

(2) The date of filing of its articles of organization;

(3) The reason for filing the articles of dissolution; and

(4) Any other information the members or managers filing the certificate shall deem proper.

SECTION 13. That Section 53-655, Idaho Code, be, and the same is hereby amended to read as follows:

53-655. VOLUNTARY CANCELLATION OF REGISTRATION. (1) A foreign limited liability company authorized to transact business in this state may cancel its registration ~~upon procuring from the secretary of state a certificate of cancellation. In order to procure such certificate, the foreign limited liability company shall deliver to~~ by filing with the secretary of state an application for cancellation, which shall set forth:

(a) The name of the foreign limited liability company and the state or other jurisdiction under the laws of which it is formed;

(b) That the foreign limited liability company is not transacting business in this state;

(c) That the foreign limited liability company surrenders its registration to transact business in this state;

(d) That the foreign limited liability company revokes the authority of its registered agent for service of process in this state and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the foreign limited liability company was authorized to transact business in this state may thereafter be made on such limited liability by service thereon in the manner provided in section 53-606, Idaho Code;

(e) A post-office address to which a copy of any process against the limited liability company may be served on it pursuant to the provisions of section 53-606, Idaho Code.

(2) The application for cancellation shall be in the form and manner designated by the secretary of state and shall be executed on behalf of the foreign limited liability company by a person with authority to do so under the laws of the state or other jurisdiction of its formation, or, if the foreign limited liability company is in the hands of a receiver, trustee or other court-appointed fiduciary, by that fiduciary.

SECTION 14. That Chapter 6, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-655A, Idaho Code, and to read as follows:

53-655A. ADMINISTRATIVE CANCELLATION OF REGISTRATION. The secretary of state may commence a proceeding under section 53-655B, Idaho Code, to administratively cancel the registration of a foreign limited liability company authorized to transact business in this state if:

(1) The foreign limited liability company does not deliver its annual report to the secretary of state by the date on which it is due;

(2) The foreign limited liability company is without a registered agent or registered office in this state for sixty (60) days or more;

(3) The secretary of state has credible information that the foreign limited liability company has failed to notify the secretary of state within sixty (60) days of the occurrence that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued;

(4) The secretary of state has credible information that a member or manager of the foreign limited liability company signed a document he knew was false in any material respect with intent that the document be delivered to the secretary of state for filing; or

(5) The secretary of state receives a duly authenticated certificate from the official having custody of the records of limited liability companies in the state or country under whose law the foreign limited liability company is organized, stating that it has been dissolved or has disappeared as a result of a merger.

SECTION 15. That Chapter 6, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-655B, Idaho Code, and to read as follows:

53-655B. PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE CANCELLATION. (1) If the secretary of state determines that one (1) or more grounds exist under section 53-655A, Idaho Code, for administrative cancellation of registration, he shall give notice of his determination to the foreign limited liability company by first class mail addressed to its principal office as indicated on its most recent annual report or, if it has not yet filed an annual report, to its registered office.

(2) If the foreign limited liability company does not correct

each ground for administrative cancellation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days after receipt of the notice of determination, the secretary of state may cancel the foreign limited liability company's registration by noting the fact of cancellation and the effective date thereof in his records. The secretary of state shall give notice of the cancellation to the foreign limited liability company by first class mail addressed to its principal office as indicated on its most recent annual report, or if it has not yet filed an annual report, to its registered office.

(3) The authority of a foreign limited liability company to transact business in this state ceases on the date shown on the notice of administrative cancellation of its registration.

(4) Service of process on a foreign limited liability company whose registration has been administratively canceled may be made upon its registered agent, if any, or if there be none, by registered or certified mail, return receipt requested, to a member or manager listed on the most recent annual report, if any, or otherwise to the address of its office in the jurisdiction of its formation as disclosed on its application for registration.

(5) Cancellation of a foreign limited liability company's registration does not terminate the authority of its registered agent.

SECTION 16. That Chapter 6, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-655C, Idaho Code, and to read as follows:

53-655C. APPEAL FROM ADMINISTRATIVE CANCELLATION. (1) A foreign limited liability company may appeal the secretary of state's cancellation of its registration to the fourth district court, Ada county, Idaho, within thirty (30) days after receipt of the notice of cancellation. The foreign limited liability company appeals by petitioning the court to set aside the cancellation and attaching to the petition copies of its application for registration with the secretary of state's filing endorsement stamp and the notice of cancellation from the secretary of state.

(2) The court may summarily order the secretary of state to reinstate the registration or may take any other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 17. That Section 53-665, Idaho Code, be, and the same is hereby amended to read as follows:

53-665. FILING, SERVICE, AND COPYING FEES. The secretary of state shall charge and collect:

(1) For filing the original articles of organization, a fee of one hundred dollars ($100) if typed and completely included on the standard form prescribed by the secretary of state or one hundred twenty dollars ($120) if not typed or if attachments are included;

(2) For filing notice of amendment and issuing a certificate of

amendment, a fee of thirty dollars ($30.00);

(3) For filing articles of merger or consolidation and issuing a certificate of merger or consolidation, a fee of thirty dollars ($30.00);

(4) For filing articles of dissolution and issuing a certificate of dissolution, a fee of thirty dollars ($30.00);

(5) For accepting an application for reservation of a name, or for filing a notice of the transfer or cancellation of any name reservation, a fee of twenty dollars ($20.00);

(6) For issuing a certificate of registration to a foreign limited liability company, a fee of one hundred dollars ($100) if typed and completely included on the standard form prescribed by the secretary of state or one hundred twenty dollars ($120) if not typed or if attachments are included; ~~and~~

(7) For filing an application for rReinstatement ~~fees-for-involuntary-cancellation-of-a-limited-liability-company's-articles-of-organization-or-registration-of-ten-dollars-($10.00)-for-each-year-or-part of-a-year-of-suspension-and/or-cancellation-and-ten--dollars--($10.00) for--a--certificate~~ following administrative dissolution, a fee of thirty dollars ($30.00);

(8) For filing a certified copy of a decree of judicial dissolution, no fee; and

(9) For filing an application for voluntary cancellation of registration of a foreign limited liability company, twenty dollars ($20.00).

Approved March 24, 1998.

CHAPTER 269
(S.B. No. 1410)

AN ACT

RELATING TO MECHANIC'S AND MATERIALMEN'S LIENS; AMENDING SECTION 45-501, IDAHO CODE, TO CLARIFY APPLICATION OF THE LIEN TO ONE WHO IS OTHERWISE UNSECURED IN WHOLE OR IN PART AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 45-501, Idaho Code, be, and the same is hereby amended to read as follows:

45-501. RIGHT TO LIEN. Every person, otherwise unsecured in whole or in part, performing labor upon, or furnishing materials to be used in the construction, alteration or repair of any mining claim, building, wharf, bridge, ditch, dike, flume, tunnel, fence, machinery, railroad, wagon road, aqueduct to create hydraulic power, or any other structure, or who grades, fills in, levels, surfaces or otherwise improves any land, or who performs labor in any mine or mining claim, and every professional engineer or licensed surveyor under contract who prepares or furnishes designs, plans, plats, maps, specifications,

drawings, surveys, estimates of cost, on-site observation or supervision, or who renders any other professional service whatsoever for which he is legally authorized to perform in connection with any land or building development or improvement, or to establish boundaries, has a lien upon the same for the work or labor done or professional services or materials furnished, whether done or furnished at the instance of the owner of the building or other improvement or his agent; and every contractor, subcontractor, architect, builder or any person having charge of any mining claim, or of the construction, alteration or repair, either in whole or in part, of any building or other improvement, as aforesaid, shall be held to be the agent of the owner for the purpose of this chapter: provided, that the lessee or lessees of any mining claim shall not be considered as the agent or agents of the owner under the provisions of this chapter.

Approved March 24, 1998.

CHAPTER 270
(S.B. No. 1425)

AN ACT

RELATING TO THE CHAIRMAN OF THE BOARD OF CORRECTION; AMENDING SECTION 20-202, IDAHO CODE, TO PROVIDE THAT THE GOVERNOR SHALL DESIGNATE ONE MEMBER OF THE BOARD TO SERVE AS CHAIRMAN.

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

SECTION 1. That Section 20-202, Idaho Code, be, and the same is hereby amended to read as follows:

20-202. INTERIM APPOINTMENTS -- CHAIRMAN. In the event of death, removal or resignation of any member of the board, the governor shall appoint some competent person to serve during the unexpired term. The governor ~~in first appointing such members, shall designate one (1) of them to serve as chairman. The board shall elect his successor from among its members~~ shall designate one (1) member of the board to serve as chairman.

Approved March 24, 1998.

CHAPTER 271
(S.B. No. 1455)

AN ACT

RELATING TO CONSTRUCTION CONTRACTS; AMENDING SECTION 29-115, IDAHO CODE, TO ALLOW OWNERS TO CONDITION FINAL RELEASE OF RETENTION FROM PROGRESS PAYMENTS ON RECEIPT OF LIEN WAIVERS, TO ELIMINATE THE REQUIREMENT OF INTEREST ON RETENTION, TO ELIMINATE THE ADDITIONAL CHARGE ON THE UNPAID BALANCE OF RETENTION, AND TO ELIMINATE THE REQUIREMENT THAT RETENTION PROCEEDS BE PLACED IN A SEGREGATED BANK ACCOUNT.

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

SECTION 1. That Section 29-115, Idaho Code, be, and the same is hereby amended to read as follows:

29-115. CONSTRUCTION CONTRACTS. (1) This section is applicable with respect to all contracts entered into on or after July 1, 1990, between owners and original contractors relating to the construction of any private work of improvement.

(2) In any contract relating to the construction of any private work of improvement, the retention proceeds withheld by the owner from the original contractor or by the original contractor from any subcontractor from any payment shall not exceed five percent (5%) of the payment and in no event shall the total retention withheld exceed five percent (5%) of the contract price. However, the five percent (5%) maximum that may be withheld does not apply if the original contractor or the subcontractor fails to provide a performance bond issued by a surety acceptable to the owner or original contractor if requested to do so by the owner or original contractor respectively. The five percent (5%) maximum shall not apply to any contract for the performance of a private work of improvement to residential real property consisting of one (1) to four (4) units occupied or to be occupied by the owner.

(3) Within thirty-five (35) days from the date on which the work of improvement is substantially complete, as mutually agreed to by the parties to the contract, the retention withheld by the owner shall be reduced to the lesser of one hundred fifty percent (150%) of the estimated value of work yet to be completed in accordance with the contract or the retention then withheld by the owner, not to exceed five percent (5%) of the contract price.

Within thirty-five (35) days from the date of final completion of the work of improvement, the retention withheld by the owner shall be released, except in the event of a dispute between the owner and the original contractor, the owner may withhold from the final retention payment an amount not to exceed one hundred fifty percent (150%) of the estimated value of the issue in dispute. The owner may condition the final release of the retention upon receipt of satisfactory lien waivers from all persons with actual or potential lien claims on the work of improvement.

(4) Subject to subsection (5) of this section, within ten (10) days from the time that all or any portion of the retention proceeds~~, together--with--interest,--if-applicable,~~ are received by the original contractor, the original contractor shall pay each of its subcontractors from whom retention has been withheld, each subcontractor's share of the retention received. ~~together-with-the-proportionate-share-of the-interest-earned-on-the-retention.~~ However, if a retention payment received by the original contractor is specifically designated for a particular subcontractor, payment of the retention ~~together--with interest--thereon,-if-applicable,~~ shall be made to the designated subcontractor. ~~The-original-contractor-may-deduct-from-the-interest--paid to--a--subcontractor--an-amount-equal-to-one-percent-(1%)-per-annum-of the-unpaid-principal-retention--to--cover--the--contractor's--cost--of administration.~~

(5) The original contractor shall not be required to pay the retention to a subcontractor if a bona fide dispute exists between the subcontractor and the original contractor. The amount withheld from the retention payment shall not exceed one hundred fifty percent (150%) of the estimated value of the work yet to be completed or issue in dispute. ~~Upon-resolution-of-the-dispute-and-payment-of--the--retention--proceeds-by-the-original-contractor-to-the-subcontractor,-interest-at-market-rates-available-for-deposit--of--that--amount--and--term shall--be--added-to-the-principal-due-the-subcontractor,-accruing-from the-date-the-retention-proceeds-were-payable-to-the-subcontractor-pursuant-to-subsection-(4)-of-this-section-and-up-to--and--including--the date-of-payment-by-the-original-contractor-to-the-subcontractor.~~

~~(6)--In--the-event-that-retention-payments-are-not-made-within-the time-periods-required-in-this-section,-the--unpaid--amounts--shall--be subject--to--an--additional-charge-over-and-above-any-interest-due,-of one-and-one-half-percent-(1.5%)-per-month-on-the-unpaid-balance.~~

~~(7)--(a)-The-lender-for-the-work-of-improvement,-or-the--owner--if there--is--no--lender,--shall--establish-and-maintain-a-segregated account-at-a-financial-institution-with-which-the-owner-does-business-and-has-established-commercial-accounts,-which-shall--not--be commingled--with--other--funds--of--the--person--establishing--the account,-with-regard-to-all-retention-proceeds-withheld-from-progress-payments-to-the-original-contractor.~~

~~(b)--All--retention--proceeds-shall-be-deposited-in-the-segregated account-as-required-by-paragraph--(a)--of--this--subsection,--when withheld-by-the-owner-from-the-original-contractor-pursuant-to-the contract--between--the--parties.-The-segregated-account-shall-bear interest-at-the-market-rates-available-for-deposit-of-that--amount and--term-at-the-financial-institution-designated-in-paragraph-(a) of-this-subsection.-The-account--shall--be--in--the--name--of--the lender,--or--the--owner--if--there--is-no-lender,-but-all-interest earned-on-the-account-shall-be-for-the--benefit--of--the--original contractor--and-shall-be-payable-to-the-original-contractor-at-the time-that-the-retention,-or-any-portion-thereof,-is--paid--to--the original--contractor--in--accordance-with-the-contract-between-the owner-and-original-contractor.--The--owner--may--deduct--from--the interest--paid--to-the-original-contractor-an-amount-sufficient-to cover-the-direct-cost-of-administering-the-segregated-account.~~

~~(c)--Title-to-the-retention-principal-deposited--into--the--segregated--account--shall-remain-with-the-lender,-or-owner-if-there-is no-lender,-and-shall-be-subject-to-all-stop--notice--rights--which any-claimant-may-have-pursuant-to-this-title.~~

~~(d)--When-the-retention-is-withheld-from-the-last-progress-payment only,--a--segregated-account-will-not-be-required-if-all-retention proceeds-are-paid-within-thirty-five-(35)-days-following--substantial--completion,-as-mutually-agreed-to-by-the-parties-to-the-contract,-of-works-of-improvement-related-to-the-retention.~~

(~~8~~6) It shall be against public policy for any party to require any other party to waive any provision of this statute.

Approved March 24, 1998.

CHAPTER 272
(S.B. No. 1466)

AN ACT

RELATING TO MOTOR VEHICLE REGISTRATION; AMENDING SECTION 49-426, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM REGISTRATION FOR CERTAIN DEVICES USED FOR TRANSPORTATION BY PERSONS WITH DISABILITIES.

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

SECTION 1. That Section 49-426, Idaho Code, be, and the same is hereby amended to read as follows:

49-426. EXEMPTIONS FROM OPERATING FEES. The provisions of this chapter with respect to operating fees shall not apply to:

(1) Motor vehicles owned or leased by the United States, the state, a city, a county, any department thereof, any political subdivision or municipal corporation of the state, any taxing district of the state, or any organization, whether incorporated or unincorporated, organized for the operation, maintenance, or management of an irrigation project or irrigation works or system or for the purpose of furnishing water to its members or shareholders, but in other respects shall be applicable.

(2) Farm tractors, implements of husbandry, road rollers, wheel mounted tar buckets, portable concrete and/or mortar mixers, wheel mounted compressors, tow dollies, portable toilet trailers, street sweepers, and similar devices as determined by the department which are temporarily operated or moved upon the highways need not be registered under the provisions of this chapter, nor shall implements of husbandry be considered towed units under registration of vehicle combinations as defined in section 49-108(2), Idaho Code. In addition, self-propelled wheelchairs, ~~invalids'--tricycles,--and~~ three-wheeled bicycles, wheelchair conveyances, golf carts, lawn mowers, and scooters operated by persons who by reason of physical disability are otherwise unable to move about as pedestrians shall be exempt from registration requirements under the provisions of this chapter. Motorcycles and all-terrain vehicles, as defined in section 67-7101, Idaho Code, need not be registered under the provisions of this chapter while being used exclusively in connection with agricultural, horticultural, dairy and livestock growing and feeding operations or used exclusively for snow removal purposes. Travel upon the public highways shall be limited to travel between farm or ranch locations. Motorcycles and all-terrain vehicles used for this purpose shall meet the requirements of section 49-619, Idaho Code.

Approved March 24, 1998.

CHAPTER 273
(S.B. No. 1490, As Amended)

AN ACT

RELATING TO SPECIAL APPLICATIONS OF THE SCHOOL FUNDING PROGRAM; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1003C, IDAHO CODE, TO PROVIDE A SPECIAL APPLICATION FOR CALCULATION OF AVERAGE DAILY ATTENDANCE FOR ACQUISITION AND MAINTENANCE OF TECHNOLOGY INSTRUCTION PROGRAMS.

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

SECTION 1. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1003C, Idaho Code, and to read as follows:

33-1003C. SPECIAL APPLICATION -- TECHNOLOGICAL INSTRUCTION. For the school years 1998-99 and 1999-2000, in order to acquire and maintain technology for individualized computer and/or distance learning programs, a school district may use student's documented contact hours on individualized computer education or distance learning programs in determining the district's average daily attendance, whether the student is actually in the computer lab or distance learning center, or has logged on to the computer from another location. A district's technology instruction programs shall be subject to the following provisions:

(1) The certification requirements for an alternative school using the individualized computer education or distance learning program may be met by having a properly certificated teacher available on a consultant tutorial basis. The consultant tutors will be available by telephone, fax, e-mail, or in person at the school site on a daily basis.

(2) Districts claiming average daily attendance pursuant to this section shall submit annual evaluations of the program to the state board of education.

(3) Districts may offer individualized computer education or distance learning programs on a calendar which may differ from the rest of the district's instruction, but in no case may a district claim more average daily attendance for a student than the full-time equivalency of a regular term of attendance for a single student.

(4) Nonalternative high school students may receive individualized computer education or distance learning instruction and credit through an alternative school site.

Approved March 24, 1998.

CHAPTER 274
(S.B. No. 1510, As Amended)

AN ACT

RELATING TO FRAUDULENT TELEPHONE SERVICES AND DISCLOSURES TO CONSUMERS OF CHANGES IN THEIR TELECOMMUNICATIONS SERVICE; AMENDING CHAPTER 6, TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 48-603D, IDAHO CODE, TO DEFINE TERMS, TO PROHIBIT THE UNAUTHORIZED SWITCHING OF A CONSUMER'S LOCAL OR INTEREXCHANGE TELEPHONE SERVICE, TO PROVIDE NOTICE OF CHANGES IN A CONSUMER'S TELECOMMUNICATIONS SERVICES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 6, Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 48-603D, Idaho Code, and to read as follows:

48-603D. UNFAIR TELEPHONE SERVICES -- UNORDERED GOODS AND SERVICES -- DISCLOSURE TO CONSUMERS. (1) As used in this section:

(a) "Telecommunications provider" means a person that provides telecommunications service.

(b) "Telecommunications service" means the offering for sale of the conveyance of voice, data or other information at any frequency over any part of the electromagnetic spectrum. Telecommunications service does not include cable television service or broadcast service.

(c) "Telecommunications service agreement" means a contract between the telecommunications provider and a consumer for telecommunications service that is provided to the consumer on a continuing or periodic basis. The term includes an oral, written, or electronically recorded contract, and includes any material amendment to an existing contract.

(2) (a) Section 48-605, Idaho Code, notwithstanding, it is unlawful for a telecommunications provider to request a change in a consumer's local exchange or interexchange carrier without the consumer's verified consent.

(b) For purposes of subsection (2)(a) of this section:

(i) It is the responsibility of the telecommunications provider requesting a change in a telephone service subscriber's local exchange or interexchange carrier to verify that the consumer has authorized the change. A telecommunications provider that does not verify a consumer's change in his or her local exchange or interexchange carrier in accordance with the verification procedures, if any, adopted by the federal communications commission under the telecommunications act of 1996, including subpart K of 47 CFR 64, as those procedures are from time to time amended, commits an unlawful practice within the meaning of this act. A telephone company, wireless carrier or telecommunications carrier providing local exchange service who has been requested by another telecommu-

nications provider to process a change in a consumer's carrier is only liable under this section if it knowingly participates in processing a requested change that is unauthorized or not properly verified; and

(ii) Compliance with applicable federal verification procedures is a complete defense to an allegation of consumer fraud under subsection (2)(a) of this section.

(3) (a) Section 48-605, Idaho Code, notwithstanding, it is unlawful for a telecommunications provider to bill a consumer for goods or services that are in addition to the consumer's telecommunications services without the consumer's authorization adding the goods or services to the consumer's service order.

(b) For purposes of subsection (3)(a) of this section, a telephone company or telecommunications carrier providing billing services for another telecommunications provider is only liable under this section if it knowingly participates in billing a consumer for goods or services without the consumer's authorization for the addition of those goods or services to the consumer's service order.

(4) (a) A telecommunications provider shall be solely responsible for providing written notice to a consumer who has agreed to enter into a telecommunications service agreement with the telecommunications provider.

(b) The notice shall clearly and conspicuously disclose to the consumer that the consumer's local exchange or interexchange carrier has been changed. The notice shall also advise the consumer that the consumer may change back to the previous carrier or select a new carrier by calling the previous carrier or the consumer's preferred carrier. The notice shall also provide the consumer with a toll-free number to call for further information.

(c) The notice shall be sent on or before the fifteenth day after the consumer enters into the telecommunications service agreement, or on or before the day the telecommunications provider first bills the consumer under the agreement, whichever is later.

(d) The notice must be a separate document sent for the sole purpose of advising the consumer of his or her entering into a telecommunications service agreement. The notice shall also not be combined with any sweepstakes entry form in the same document or other like inducement.

(e) The sending of this notice shall not constitute a defense to a charge that a consumer did not consent to enter into a telecommunications service agreement or that the consumer's consent was verified according to federal law.

(f) Compliance with the notification requirements, if any, adopted by the federal communications commission under the telecommunications act of 1996, including subpart K of 47 CFR 64, shall be deemed to be compliance with this subsection.

(g) A consumer who selects a different carrier within three (3) days after receiving the notice under subsection (4)(a) of this section may not be charged a cancellation charge or disconnect fee unless the consumer has more than five (5) telephone lines and has entered into a written agreement which specifies such charges and fees, and the telecommunications provider has complied with the

verification procedures under subsection (2)(b) of this section.

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

Approved March 24, 1998.

CHAPTER 275
(S.B. No. 1511)

AN ACT

RELATING TO MOTOR VEHICLE FINANCIAL RESPONSIBILITY; AMENDING SECTION 49-1232, IDAHO CODE, TO PROVIDE IF A COURT HAS NOT ORDERED THE TRANSPORTATION DEPARTMENT TO SUSPEND THE DRIVING PRIVILEGES OF ANY PERSON CONVICTED OF A VIOLATION OF THE PROVISIONS OF THE SECTION REGARDING MOTOR VEHICLE FINANCIAL RESPONSIBILITY, THE DEPARTMENT MAY RESCIND THE SUSPENSION ACTION, ONLY IF THE DRIVER CAN PROVE BY SUFFICIENT EVIDENCE THAT THE LEGALLY REQUIRED MOTOR VEHICLE INSURANCE OR OTHER REQUIRED EVIDENCE OF FINANCIAL RESPONSIBILITY WAS IN FORCE AND EFFECT AT THE TIME OF THE ISSUANCE OF THE CITATION AND TO PROVIDE THAT NO REINSTATEMENT FEE WILL BE ASSESSED FOR RESCINDING THE SUSPENSION ACTION UNDER THIS SECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-1232, Idaho Code, be, and the same is hereby amended to read as follows:

49-1232. CERTIFICATE OR PROOF OF LIABILITY INSURANCE TO BE CARRIED IN MOTOR VEHICLE. (1) A certificate or proof of liability insurance shall be in the possession of the operator of every motor vehicle or present in every motor vehicle at all times when the vehicle is operated within this state. The certificate or proof of liability insurance shall be provided for inspection to any peace officer upon request to the operator of any motor vehicle. No person shall be convicted of violating this section if that person produces at any time prior to conviction the certificate or proof of liability insurance covering the motor vehicle that person is accused of operating in violation of this section, where the certificate or proof of liability insurance demonstrates the existence of liability insurance described in section 49-1212, Idaho Code, which was in effect at the time of occurrence of the violation.

(2) <u>If the court has not ordered the department to suspend the driving privileges of any person convicted of a violation of the provisions of this section, the department may rescind the suspension action, only if the driver can prove by sufficient evidence that the legally required motor vehicle insurance or other required evidence of financial responsibility was in force and effect at the time of the issuance of the citation. No reinstatement fee will be assessed for</u>

rescinding the suspension action under this section.

(3) It is an infraction punishable by a fine of seventy-five dollars ($75.00) for any person to violate the provisions of this section.

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 24, 1998.

CHAPTER 276
(S.B. No. 1528)

AN ACT

RELATING TO ELECTION PRECINCTS; AMENDING CHAPTER 3, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-307, IDAHO CODE, TO PROVIDE THAT PRECINCT BOUNDARIES SHALL BE MAINTAINED WITHIN A SPECIFIED TIME PERIOD; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 3, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-307, Idaho Code, and to read as follows:

34-307. PRECINCT BOUNDARIES MAINTAINED. From January 15 in any year ending in 8 through September 15 in any year ending in 1, the board of county commissioners shall make no changes in precinct boundaries, except that a single precinct may be divided into two (2) or more new precincts wholly contained within the original precinct.

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 24, 1998.

CHAPTER 277
(S.B. No. 1544)

AN ACT

APPROPRIATING MONEYS FOR SPECIAL PROGRAMS FOR FISCAL YEAR 1999; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED GENERAL FUND BALANCES FOR THE DESIGNATED PROGRAMS; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education for Special Programs the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. FOREST UTILIZATION RESEARCH:					
FROM:					
General Fund	$ 441,600	$ 44,300			$ 485,900
II. IDAHO GEOLOGICAL SURVEY:					
FROM:					
General Fund	$ 613,300	$ 51,300	$ 7,300		$ 671,900
III. SCHOLARSHIPS AND GRANTS:					
FROM:					
General Fund				$2,188,000	$2,188,000
Scholarship Fund		$ 400		6,100	6,500
Federal Grant Fund				186,000	186,000
TOTAL		$ 400		$2,380,100	$2,380,500
IV. IDAHO MUSEUM OF NATURAL HISTORY:					
FROM:					
General Fund	$ 434,300	$ 29,300	$41,400		$ 505,000
V. IDAHO SMALL BUSINESS DEVELOPMENT CENTERS:					
FROM:					
General Fund				$ 252,200	$ 252,200
VI. IDAHO COUNCIL FOR ECONOMIC EDUCATION:					
FROM:					
General Fund				$ 54,000	$ 54,000
GRAND TOTAL	$1,489,200	$125,300	$48,700	$2,686,300	$4,349,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than twenty-five and forty-four hundredths (25.44) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the Board of Regents of the University of Idaho and to the State Board of Education for the Forest Utilization Research Program, Idaho Geological Survey Program, Scholarships and Grants Program, Idaho Museum of Natural History, Idaho Small Business Development Centers, and Idaho Council on Economic Education, the unexpended and unencumbered balance of any Gen-

eral Fund appropriation made to each respective program under Section 1, Chapter 332, Laws of 1997, for each respective program to be used for nonrecurring expenditures for the period July 1, 1998, through June 30, 1999.

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

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1998, is zero, the reappropriation in Section 3 is declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1998, is greater than zero but less than the total reappropriation authority granted to all state agencies, the amounts reappropriated in Section 3 shall be in the proportion that the reappropriation for each respective program bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 24, 1998.

CHAPTER 278
(S.B. No. 1545)

AN ACT

APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 1999; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED BALANCES; SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service Program the following amounts from the listed funds for the period July 1, 1998, through June 30, 1999:

FROM:	
General Fund	$21,097,000
Equine Education Fund	135,000
Federal Grant Fund	4,384,900
Miscellaneous Revenue Fund	181,900
TOTAL	$25,798,800

SECTION 2. There is hereby reappropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 141, Laws of 1997, to be used for nonrecurring expenditures for the period July 1, 1998, through June 30, 1999.

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, 1998, 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, 1998, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 2 of this act shall be in the proportion that the reappropriation for the Agricultural Research and Cooperative Extension Service bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 4. Of the appropriation made from the General Fund in Section 1 of this act, it is legislative intent that $86,000 be used, together with industry support, as follows: $13,000 for one (1) dairy science position in the College of Agriculture's Animal and Veterinary Science Department; and $73,000 for one (1) wheat research support position and one (1) potato research support position at the Aberdeen Research and Extension Center.

Approved March 24, 1998.

CHAPTER 279
(S.B. No. 1546)

AN ACT

APPROPRIATING MONEYS TO THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO AND THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1999; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO EXPENDITURE OF FUNDS FOR TECHNOLOGY IN LEARNING.

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 amount for technology in learning projects, to be expended for the period July 1, 1998, through June 30, 1999:

FROM:

General Fund $1,300,000

SECTION 2. It is legislative intent that the State Council for Technology in Learning make a recommendation, subject to review and approval by the State Board of Education, on the use and allocation of funds appropriated for technology in learning projects in Section 1 of this act.

Approved March 24, 1998.

CHAPTER 280
(S.B. No. 1548)

AN ACT

APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 1999; 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, 1998, through June 30, 1999:

FOR:	
Personnel Costs	$88,800
Operating Expenditures	9,400
TOTAL	$98,200
FROM:	
General Fund	$98,200

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, 1998, through June 30, 1999, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 24, 1998.

CHAPTER 281
(S.B. No. 1549)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1999; 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 funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$867,700	$264,600	$9,100	$1,141,400
Miscellaneous Revenue Fund	106,200	53,800		160,000
TOTAL	$973,900	$318,400	$9,100	$1,301,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than fifteen and eighty-five hundredths (15.85) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 1, Chapter 253, Laws of 1997, to be used for nonrecurring expenditures for the period July 1, 1998, through June 30, 1999.

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, 1998, 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, 1998, 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 24, 1998.

CHAPTER 282
(S.B. No. 1550)

AN ACT

APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 1999; LIMITING THE NUMBER

OF FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; REAPPROPRIATING A CERTAIN UNEXPENDED AND UNENCUMBERED BALANCE OF MONEYS; 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 Superintendent of Public Instruction/State Department of Education the following amounts, to be expended according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
STATE DEPARTMENT OF EDUCATION:					
FROM:					
General Fund	$2,490,700	$1,788,000	$45,000	$ 522,500	$ 4,846,200
Driver's Education Fund	122,900	141,000		1,993,500	2,257,400
Public Instruction Fund	298,400	915,900		10,800	1,225,100
Student Tuition Recovery Fund		5,200		47,700	52,900
Federal Grant Fund	2,406,600	1,708,700		77,746,900	81,862,200
Indirect Cost Recovery Fund	224,000	161,100			385,100
Data Processing Services Fund	138,000	40,500			178,500
TOTAL	$5,680,600	$4,760,400	$45,000	$80,321,400	$90,807,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Department of Education is authorized no more than one hundred nine (109) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

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

SECTION 4. There is hereby reappropriated to the Superintendent

of Public Instruction/State Department of Education, subject to the provisions of Section 5 of this act, the unexpended and unencumbered balance of the General Fund appropriation made by Section 1, Chapter 123, Laws of 1997, to be used for the development of exiting standards for the period July 1, 1998, through June 30, 1999.

SECTION 5. The reappropriation granted in Section 4 of this act shall be subject to the following provision:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1998, 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, 1998, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 4 of this act shall be in the proportion that the reappropriation for the Superintendent of Public Instruction/State Department of Education bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 24, 1998.

CHAPTER 283
(S.B. No. 1551)

AN ACT
APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 1999; 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, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMPENSATION:					
FROM:					
Industrial Administration Fund	$1,805,300	$ 814,600	$ 81,900	$ 997,100	$ 3,698,900
Federal Grant Fund	2,700	2,300			5,000
Miscellaneous Revenue Fund		20,500			20,500
TOTAL	$1,808,000	$ 837,400	$ 81,900	$ 997,100	$ 3,724,400
II. REHABILITATION:					
FROM:					
Industrial Administration Fund	$2,428,900	$ 795,700	$124,600		$ 3,349,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. CRIME VICTIMS COMPENSATION:					
FROM:					
Crime Victims Compensation Fund	$ 303,400	$ 86,200	$ 23,100	$2,005,600	$ 2,418,300
Federal Grant Fund				445,000	445,000
TOTAL	$ 303,400	$ 86,200	$ 23,100	$2,450,600	$ 2,863,300
IV. ADJUDICATION:					
FROM:					
Industrial Administration Fund	$1,122,800	$ 363,400	$ 10,500		$ 1,496,700
GRAND TOTAL	$5,663,100	$2,082,700	$240,100	$3,447,700	$11,433,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Industrial Commission is authorized no more than one hundred thirty-five and five-tenths (135.5) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 24, 1998.

CHAPTER 284
(S.B. No. 1552)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 1999; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Labor the following amounts, to be expended according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. WAGE AND HOUR:			
FROM:			
General Fund	$268,500	$149,800	$418,300
Miscellaneous Revenue Fund		10,300	10,300
TOTAL	$268,500	$160,100	$428,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
II. RURAL PARTNERSHIP:			
FROM:			
Federal Grant Fund	$ 78,700	$ 65,300	$144,000
Miscellaneous Revenue Fund		32,000	32,000
TOTAL	$ 78,700	$ 97,300	$176,000
GRAND TOTAL	$347,200	$257,400	$604,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Labor is authorized no more than seven (7) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 24, 1998.

CHAPTER 285
(S.B. No. 1553)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE STATE INSURANCE FUND FOR FISCAL YEAR 1999; 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 administration of the State Insurance Fund the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds, for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. WORKER'S COMPENSATION:				
FROM:				
State Insurance Fund	$9,133,300	$2,801,900	$386,100	$12,321,300
II. PETROLEUM STORAGE TANK:				
FROM:				
Petroleum Clean Water Trust Fund	$ 718,200	$ 457,900		$ 1,176,100
GRAND TOTAL	$9,851,500	$3,259,800	$386,100	$13,497,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Insurance Fund is authorized no more than two hundred thirty-one (231) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 24, 1998.

CHAPTER 286
(S.B. No. 1554)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 1999; 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, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Electrical Fund	$2,014,400	$ 734,500	$236,300	$2,985,200
Building Fund	709,100	152,600	5,700	867,400
Plumbing Fund	1,113,300	468,600	184,400	1,766,300
Manufactured Housing Fund	45,100	15,800		60,900
Federal Grant Fund	102,100	40,200		142,300
Miscellaneous Revenue/ Industrial Safety Fund	458,400	142,200	40,800	641,400
Miscellaneous Revenue/ Logging Fund	227,000	74,400	25,700	327,100
TOTAL	$4,669,400	$1,628,300	$492,900	$6,790,600

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, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
Electrical Fund	$ 178,100	$ 25,200	$ 6,800	$ 210,100
Building Fund	72,700	10,400	2,700	85,800
Plumbing Fund	93,000	13,100	3,600	109,700
Miscellaneous Revenue/ Industrial Safety Fund	40,500	5,800	1,500	47,800
Miscellaneous Revenue/ Logging Fund	20,300	2,900	900	24,100
TOTAL	$ 404,600	$ 57,400	$ 15,500	$ 477,500
II. BUILDING SAFETY:				
FROM:				
Electrical Fund	$1,836,300	$ 709,300	$229,500	$2,775,100
Building Fund	636,400	142,200	3,000	781,600
Plumbing Fund	1,020,300	455,500	180,800	1,656,600
Manufactured Housing Fund	45,100	15,800		60,900
Federal Grant Fund	102,100	40,200		142,300
Miscellaneous Revenue/ Industrial Safety Fund	417,900	136,400	39,300	593,600
Miscellaneous Revenue/ Logging Fund	206,700	71,500	24,800	303,000
TOTAL	$4,264,800	$1,570,900	$477,400	$6,313,100
GRAND TOTAL	$4,669,400	$1,628,300	$492,900	$6,790,600

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 one hundred one (101) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 24, 1998.

CHAPTER 287
(S.B. No. 1389)

AN ACT

RELATING TO COSMETOLOGY; AMENDING SECTION 54-805, IDAHO CODE, TO PROVIDE ADDITIONAL OPTIONS FOR TRAINING AS A NAIL TECHNICIAN OR ESTHETICIAN AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SEC-

TION 54-807, IDAHO CODE, TO PROVIDE ADDITIONAL APPLICATIONS FOR PRACTICE OF AN APPRENTICE.

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

SECTION 1. That Section 54-805, Idaho Code, be, and the same is hereby amended to read as follows:

54-805. REQUIREMENTS FOR LICENSE. Except as herein otherwise provided, the following shall be considered minimum requirements for license in the respective categories, and all applicants shall be of good moral character and temperate habits:

1. As a registered cosmetologist:

(a) Completion of two (2) years' high school education or its equivalent.

(b) Graduation from and completion of two thousand (2,000) hours' training in a school of cosmetology, or four thousand (4,000) hours' training as an apprentice covering all phases of the practice of cosmetology.

(c) Successful passage of the examination for cosmetologist given under the direction of the board.

2. As an instructor: twelve (12) semester college credit hours or equivalent as approved by the board or successful completion of the examination required by board rules, and

(a) One (1) year's experience as a licensed cosmetologist in a registered cosmetological establishment or school and six (6) months of teacher's training in a school of cosmetology, or

(b) Two (2) years' experience as a licensed cosmetologist in a registered cosmetological establishment and three (3) months of teacher's training in a school of cosmetology, or

(c) Five (5) years' experience as a licensed cosmetologist, immediately preceding the application for license, and

3. As a student:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

4. As an apprentice:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

5. As a nail technician:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least three hundred (300) hours of training and graduated from such training in a board approved school <u>or six hundred (600) hours of training in any cosmetological establishment under the direct supervision of a cosmetology instructor, who shall have at least one (1) registered nail technician on-site for each student being trained.</u>

(d) Successful passage of the examination for nail technician given under the direction of the board.

6. As an electrologist/esthetician:

(a) Be sixteen and one-half (16 1/2) years of age.
(b) Have completed at least two (2) years of high school education or its equivalent.
(c) Have completed and graduated from at least eight hundred (800) hours of training for such in a school approved by the board to teach electrology/esthetics or sixteen hundred (1,600) hours as an apprentice under the direct personal supervision of a licensed electrologist/esthetician instructor as established by board ~~regulations~~ rules.
(d) Successfully passed the examination for electrologist and esthetician given under the direction of the board.
7. As an esthetician:
(a) Be sixteen and one-half (16 1/2) years of age.
(b) Have completed at least two (2) years of high school education or its equivalent.
(c) Have completed and graduated from at least five hundred (500) hours of training for such in a school approved by the board to teach esthetics or one thousand (1,000) hours in any cosmetological establishment under the direct supervision of a cosmetology instructor, who shall have at least one (1) registered esthetician on-site for each student being trained.
(d) Successfully passed the examination for esthetician given under the direction of the board.
8. As an electrologist/esthetician instructor: twelve (12) semester college credit hours or equivalent, as approved by the board, or successful completion of an examination required by board rules, and:
(a) Five (5) years' experience as a licensed electrologist/esthetician; or
(b) Fewer than five (5) years' experience as a licensed electrologist/esthetician and completion of an adequate training program to be established by board rule.

SECTION 2. That Section 54-807, Idaho Code, be, and the same is hereby amended to read as follows:

54-807. PRACTICE OF APPRENTICE. No licensed apprentice may practice independently, but he may do any and all acts necessary for his training as a cosmetologist, nail technician, electrologist or esthetician providing the same is done under the immediate personal supervision of a licensed registered cosmetologist, nail technician, electrologist or esthetician in an establishment where one (1) of said registered cosmetologists is a licensed instructor, and only one (1) such apprentice shall be employed for each two (2) licensed registered cosmetologists, nail technicians, electrologists or estheticians in any cosmetological establishment. Cosmetological establishments employing apprentices shall keep a daily work record of the attendance of such apprentices and shall, upon the termination of such apprenticeship, certify to the board the total number of hours worked and the types of instruction given the apprentice.

Approved March 24, 1998.

CHAPTER 288
(S.B. No. 1471)

AN ACT

RELATING TO COSMETOLOGY; AMENDING SECTION 54-802, IDAHO CODE, TO PROVIDE DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-805, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR CERTAIN LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-813, IDAHO CODE, TO PROVIDE FOR THE CONTINUED QUALIFICATION OF PERSONS FOR LICENSES; AND AMENDING SECTION 54-818, IDAHO CODE, TO PROVIDE LICENSE FEES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-802, Idaho Code, be, and the same is hereby amended to read as follows:

54-802. DEFINITIONS. For the purpose of this chapter, the following definitions shall apply:

(a) "Cosmetology" shall constitute any one (1) or combination of the following practices when done upon the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

1. Cutting, trimming, arranging, dressing, curling, waving by any method, cleansing, singeing, bleaching, coloring, or similar work upon the hair.
2. Applying cosmetic preparations, antiseptics, tonics, lotions or creams, or massaging, cleansing, exercising, beautifying, or similar applications or work upon the scalp, face, neck, arms, hands, busts, or other parts of the body.
3. Manicuring, pedicuring the nails, and the application of artificial nails.

(b) "Registered cosmetologist" shall mean any person licensed to practice cosmetology.

(c) "Nail technology" shall constitute any one (1) or more of the following practices when done upon the human body:

1. Manicuring, pedicuring the nails, and the application of all forms of artificial nails.
2. Massage of the hands and feet.

(d) "Nail technician" shall mean any person whose practice of cosmetology is limited to nail technology.

(e) "Apprentice" shall mean any person who is engaged in learning or acquiring of any or all of the practices of cosmetology, and while so learning performs or assists in any of the practices of cosmetology.

(f) "Student" shall mean any person who is engaged in the learning or acquiring of any or all of the practices of cosmetology in a registered school of cosmetology, and while so learning performs or assists in any of the practices of cosmetology.

(g) "Instructor" shall mean a cosmetologist who teaches cosmetology or any practices thereof in a school of cosmetology or school or college of barbering.

(h) "Student instructor" shall mean a cosmetologist who is receiving training to teach cosmetology.

(i) "Cosmetological establishment" shall mean any place or part thereof other than a school of cosmetology wherein cosmetology is practiced.

(j) "School of cosmetology" shall mean any place or part thereof wherein cosmetology is taught to students.

(k) "Board" means the Idaho board of cosmetology.

(l) "Department" means the Idaho department of self-governing agencies.

(m) "Chapter" as used in this act refers to chapter 8, title 54, ~~chapter 8,~~ Idaho Code.

(n) ~~"Electrology/esthetics"--shall-constitute-any-one-(1)-or-combination-of-the-following-practices,-when-done-upon-the-human-body:~~

~~1.--The-permanent-removal-of-hair-by-the--insertion--of--a--probe,-needle,-or-filament,-inserted-below-the-skin.~~

~~2.--Applying--cosmetic--preparations,-antiseptics,-tonics,-lotions-or-creams,-or--massaging,--cleansing,--stimulating,--manipulating,-exercising,--beautifying,-or-similar-applications-or-work-upon-the-human-body.~~

~~(o)~~ "Electrologist~~/esthetician~~" means any person licensed to practice electrology~~/esthetics~~ and who is skilled in the permanent removal of unwanted hair. ~~and-in-the-practice-of-skin-care.~~

(o) "Electrolysis or electrology" means the permanent removal of hair by destroying the hair producing cells of the skin and vascular system using equipment and devices approved by and registered with the United States food and drug administration.

(p) "Esthetics" shall constitute any one (1) or combination of the following practices when done on the human body:

1. Applying cosmetic preparations, antiseptics, tonics, lotions or creams, or massaging, cleansing, exercising, beautifying or similar applications of work to the human body.

2. Nonpermanent hair removal by tweezing or waxing.

(q) "Esthetician" means any person licensed to practice esthetics.

(r) "Electrologist~~/esthetician~~ instructor" means an electrologist~~/-esthetician~~ who teaches electrology~~/esthetics~~ or any practices thereof in a school of cosmetology approved to teach electrology~~/esthetics~~.

(s) "Student electrologist~~/esthetician~~ instructor" shall mean an electrologist~~/esthetician~~ who is receiving training to teach electrology~~/esthetics~~.

(t) "Makeover or glamour photography business" means any business engaged in the offering of photographic services to the general public and whose employees engage in the facial application of cosmetic products or the arranging of the hair of customers in connection with the sale, or attempted sale, of photographic services.

(u) "Retail cosmetics dealer" means a fixed retail business which offers cosmetic products for sale at retail to members of the general public and whose employees engage in the facial application of cosmetic products to customers in connection with the sale, or attempted sale, of the products without compensation from the customer other than the regular price of the merchandise.

SECTION 2. That Section 54-805, Idaho Code, be, and the same is hereby amended to read as follows:

54-805. REQUIREMENTS FOR LICENSE. Except as herein otherwise provided, the following shall be considered minimum requirements for license in the respective categories, and all applicants shall be of good moral character and temperate habits:

1. As a registered cosmetologist:

(a) Completion of two (2) years' high school education or its equivalent.

(b) Graduation from and completion of two thousand (2,000) hours' training in a school of cosmetology, or four thousand (4,000) hours' training as an apprentice covering all phases of the practice of cosmetology.

(c) Successful passage of the examination for cosmetologist given under the direction of the board.

2. As an instructor: twelve (12) semester college credit hours or equivalent as approved by the board or successful completion of the examination required by board rules, and

(a) One (1) year's experience as a licensed cosmetologist in a registered cosmetological establishment or school and six (6) months of teacher's training in a school of cosmetology, or

(b) Two (2) years' experience as a licensed cosmetologist in a registered cosmetological establishment and three (3) months of teacher's training in a school of cosmetology, or

(c) Five (5) years' experience as a licensed cosmetologist, immediately preceding the application for license, and

3. As a student:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

4. As an apprentice:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

5. As a nail technician:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least three hundred (300) hours of training and graduated from such training in a board approved school.

(d) Successful passage of the examination for nail technician given under the direction of the board.

6. As an electrologist~~/esthetician~~:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least eight hundred (800) hours of training for such in a school approved by the board to teach electrology~~/esthetics~~ or sixteen hundred (1,600) hours as an apprentice under the direct personal supervision of a licensed electrologist~~/esthetician~~ instructor as established by board ~~regu-~~

~~tations~~ rules.

(d) Successfully passed the examination for electrologist ~~and esthetician~~ given under the direction of the board.

7. As an esthetician:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least ~~five~~ six hundred (~~5~~600) hours of training for such in a school approved by the board to teach esthetics.

(d) Successfully passed the examination for esthetician given under the direction of the board.

8. As an electrologist~~/esthetician~~ instructor: twelve (12) semester college credit hours or equivalent, as approved by the board, or successful completion of an examination required by board rules, and:

(a) Five (5) years' experience as a licensed electrologist~~/esthetician~~; or

(b) Fewer than five (5) years' experience as a licensed electrologist~~/esthetician~~ and completion of an adequate training program to be established by board rule.

SECTION 3. That Section 54-813, Idaho Code, be, and the same is hereby amended to read as follows:

54-813. PRACTITIONERS PRIOR TO AMENDMENTS. Any person who has qualified for license, including both individual and combined licenses, under the provisions of this chapter prior to an amendment thereof shall be entitled to such license~~, and~~. A~~a~~ny person who has commenced a course of training under the provisions of this chapter prior to an amendment thereof changing the age, length of training, hours of training, or similar provisions, shall be entitled to complete his course of training under the provisions of the pre-existing law, and shall be entitled to such subsequent licenses at the termination of said training as he would have been entitled to had the provisions of this chapter not been amended. All licenses and registrations issued prior to amendments to this chapter shall be valid, providing that if registration or license was not required prior to such amendments, the parties affected shall be entitled to registration or license as herein provided by applying for registration or license in their particular category within ninety (90) days following the effective date of the amendment provided the applicant has pursued the activity for which registration or license is sought during the entire calendar year first prior to the effective date of the amendment.

SECTION 4. That Section 54-818, Idaho Code, be, and the same is hereby amended to read as follows:

54-818. FEES. The various fees to be paid by applicants for original registrations, original licenses, annual renewals, certificates issued upon reciprocity, and examinations as required under this chapter shall be fixed by administrative rules of the board in amounts not to exceed the following:

(a) Original registrations, licenses, and annual renewals

thereof:

cosmetological establishment, original registration	$ 50.00
cosmetological establishment, annual renewals	30.00
retail cosmetics dealer, original registration	50.00
retail cosmetics dealer, annual renewals	30.00
makeover or glamour photography business, original registration	50.00
makeover or glamour photography business, annual renewals	30.00
domestic school of cosmetology, original registration	500.00
domestic school of cosmetology, annual renewals	150.00
registered cosmetologist, original license/annual renewals	20.00
nail technician, original license/annual renewals	20.00
apprentice, original license (no renewal fees required)	20.00
student certificate (no renewal fees required)	20.00
instructor, original license/annual renewals	25.00
student instructor certificate	25.00
electrologist~~/esthetician~~, original license/annual renewals	22.00
esthetician, original license/annual renewals	22.00
endorsement	100.00
interim certificate when endorsement denied, also constitutes examination	35.00
temporary license to practice, demonstrate and teach	10.00

(b) Examination:

as a registered cosmetologist	$35.00
as a nail technician	35.00
as an instructor when required by board ~~regulation~~ rule	35.00
as an electrologist~~/esthetician~~	35.00
as an esthetician	35.00

Fees shall not be prorated or returnable.

All certificates expire December 31.

Approved March 24, 1998.

CHAPTER 289
(H.B. No. 791)

AN ACT

RELATING TO ACQUIRING SPECIFIED ENDOWMENT LANDS FOR PONDEROSA STATE PARK; AMENDING CHAPTER 5, TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 58-507, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND PURPOSES, TO DESCRIBE CERTAIN ENDOWMENT LANDS LOCATED NEAR, ADJACENT TO, OR WITHIN PONDEROSA STATE PARK, TO DESCRIBE THE MANAGEMENT OF PONDEROSA STATE PARK, TO PROVIDE THAT THE STATE BOARD OF LAND COMMISSIONERS SHALL RECEIVE TITLE TO REAL PROPERTY OF EQUIVALENT VALUE THROUGH LAND EXCHANGE, TO PROVIDE THAT THE PARK AND RECREATION BOARD HAS AGREED TO ACQUIRE TITLE TO THE DESCRIBED ENDOWMENT LANDS AND TO PROVIDE THAT IT IS THE INTENT OF THE LEGISLATURE TO PROVIDE FUNDS FOR THE DESCRIBED LAND EXCHANGE.

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

SECTION 1. That Chapter 5, Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 58-507, Idaho Code, and to read as follows:

58-507. LEGISLATIVE FINDINGS AND PURPOSES. The legislature of the state of Idaho finds:

(1) That the following described tracts of endowment land, containing fifty-seven and two-tenths (57.2) acres of endowment land, more or less, managed by the state board of land commissioners, are located near, adjacent to, or within the boundaries of Ponderosa State Park near McCall, Idaho:

(a) Part Government Lot 1, Part Government Lot 2, Section 4, T18N, R3E, B.M., containing forty-eight (48) acres, more or less, and commonly referred to as Lakeview Village;

(b) One (1) parcel of vacant land in Government Lots 1 and 2, Section 4, T18N, R3E, B.M., containing six (6) acres, more or less;

(c) Part Government Lot 7, Section 34, T19N, R3E, B.M., containing two and eight-tenths (2.8) acres, more or less, commonly referred to as the Nazarene Church Camp;

(d) One (1) cottage site lease lot in Government Lot 7, Section 34, T19N, R3E, B.M., containing four-tenths (.4) acres, more or less, currently leased to Marie Whitesel.

(2) That the Idaho park and recreation board manages Ponderosa State Park for public recreation and desires to consolidate ownership and management of the described parcels of endowment land with the existing park;

(3) That endowment lands are held in trust by the state board of land commissioners and are managed to generate the maximum long-term financial returns to the institution to which granted, or to the state if not specifically granted;

(4) That any transaction in which the Idaho park and recreation board acquires title to endowment lands, for inclusion in Ponderosa State Park, the state board of land commissioners shall receive title to real property of equivalent market value through land exchange;

(5) The Idaho park and recreation board and the state board of land commissioners have agreed to enter into a contract by which the Idaho park and recreation board may acquire the described endowment lands, associated timber, and improvements now owned by the state board of land commissioners, through land exchange at not less than fair market value, as determined by qualified appraisals;

(6) The Idaho park and recreation board has agreed to acquire title to the described endowment lands subject to any outstanding rights and reservations of record, and shall pay all costs of the transactions including, but not limited to, surveys and appraisals;

(7) It is the intent of the legislature to provide funds for this exchange to the Idaho park and recreation board in a timely manner.

Approved March 24, 1998.

CHAPTER 290
(H.B. No. 443, As Amended)

AN ACT

RELATING TO THE BUDGET STABILIZATION FUND; AMENDING SECTION 57-814, IDAHO CODE, TO CREATE THE BUDGET STABILIZATION FUND IN PLACE OF THE BUDGET RESERVE ACCOUNT, TO TRANSFER ALL FUNDS IN THE BUDGET RESERVE ACCOUNT AT THE DATE OF APPROVAL OF THIS ACT INTO THE BUDGET STABILIZATION FUND, TO PROVIDE THAT THE STATE CONTROLLER SHALL ANNUALLY TRANSFER MONEYS FROM THE GENERAL FUND TO THE BUDGET STABILIZATION FUND SUBJECT TO CERTAIN CRITERIA, TO PROVIDE THAT THE TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE BUDGET STABILIZATION FUND MAY BE REDUCED, TO LIMIT THE APPROPRIATIONS OF MONEYS FROM THE BUDGET STABILIZATION FUND; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 57-814, Idaho Code, be, and the same is hereby amended to read as follows:

57-814. BUDGET ~~RESERVE ACCOUNT~~ STABILIZATION FUND. (1) There is hereby created in the ~~agency--asset-fund~~ state treasury the budget ~~reserve-account,-to-which-shall-be-deposited--such--appropriations--as may--be-made-by-law~~ stabilization fund for the purpose of meeting general fund revenue shortfalls and to meet expenses incurred as the result of a major disaster declared by the governor. All moneys in the budget reserve account at the date of approval of this act shall be transferred to the budget stabilization fund. Interest earnings from the investment of moneys in this ~~account~~ fund by the state treasurer shall be credited to the permanent building account subject to the provisions of section 67-1210, Idaho Code.

(2) Subject to the requirements of section 63-3203, Idaho Code, the state controller shall annually transfer moneys from the general fund to the budget stabilization fund subject to the following criteria:

(a) An amount equal to one percent (1%) of the total original general fund appropriations made for the fiscal year just ending, shall be transferred to the budget stabilization fund in any year in which the state controller certifies that the receipts to the general fund for the just concluded fiscal year have exceeded the receipts of the previous fiscal year by more than four percent (4%). The state controller shall make the transfers in four (4) equal amounts during September, December, March and June of the next fiscal year.

(b) The amount of moneys in the budget stabilization fund shall not exceed five percent (5%) of the total general fund appropriations for the fiscal year beginning July 1, following the legislative session.

(c) The state controller shall transfer moneys in the budget stabilization fund in excess of the limit imposed in subsection (2)(b) of this section to the general fund.

(3) If a majority of the membership of each house of the legislature adopt a concurrent resolution requesting the amount of the transfer specified in subsection (2) of this section be reduced, the state controller shall reduce the amount of the transfer.

(4) Appropriations of moneys from the budget stabilization fund in any year shall be limited to fifty percent (50%) after the fund balance has reached five percent (5%).

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

Approved March 24, 1998.

CHAPTER 291
(H.B. No. 630)

AN ACT

RELATING TO FISHING; AMENDING CHAPTER 4, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-406A, IDAHO CODE, TO AUTHORIZE THE FISH AND GAME COMMISSION TO PROMULGATE RULES SPECIFYING SEASONS AND WATERS WHERE PERSONS MAY APPLY FOR A VALIDATION TO BE PLACED ON THEIR FISHING LICENSE AUTHORIZING THE PERSON TO USE TWO POLES ON WATERS AND DURING SEASONS SPECIFIED BY THE COMMISSION.

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

SECTION 1. That Chapter 4, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-406A, Idaho Code, and to read as follows:

36-406A. TWO POLE VALIDATION. The commission is authorized to promulgate rules specifying seasons and waters where a resident or nonresident may apply for a validation to be placed on their fishing license authorizing the person to use two (2) poles on waters that have been designated as "two pole" waters by commission rule subject to payment of a seven dollar and fifty cent ($7.50) fee. A person who has a validation may utilize two (2) poles to fish with during the season so specified by commission rule and on the waters so specified by commission rule. The fee imposed by this section shall be deposited in the fish and game account.

Approved March 24, 1998.

CHAPTER 292
(H.B. No. 462, As Amended, As Amended)

AN ACT

RELATING TO INCOME WITHHOLDING FOR CHILD SUPPORT; REPEALING SECTIONS 7-1204, 7-1205, 32-1204, 32-1207, 32-1208, 32-1209, 32-1211,

32-1213, 32-1214 AND 32-1217, IDAHO CODE; AMENDING SECTION 7-1121, IDAHO CODE, TO SPECIFY CONTENTS OF A CHILD SUPPORT ORDER; AMENDING SECTION 16-1622, IDAHO CODE, TO SPECIFY CONTENTS OF A CHILD SUPPORT ORDER; AMENDING SECTION 20-524, IDAHO CODE, TO SPECIFY CONTENTS OF A CHILD SUPPORT ORDER; AMENDING SECTION 32-706, IDAHO CODE, TO SPECIFY CONTENTS OF A CHILD SUPPORT ORDER; AMENDING SECTION 32-710A, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND SPECIFY CONTENTS OF A CHILD SUPPORT ORDER; AMENDING SECTION 32-1202, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 32-1205, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO SPECIFY CONDITIONS FOR NOTICE AND IMPLEMENTATION OF IMMEDIATE INCOME WITHHOLDING; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1205, IDAHO CODE, TO PROVIDE FOR INCOME WITHHOLDING UPON A DELINQUENCY; AMENDING SECTION 32-1206, IDAHO CODE, TO GOVERN JUDICIAL PROCEEDINGS FOR INCOME WITHHOLDING; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1207, IDAHO CODE, TO GOVERN ADMINISTRATIVE PROCEEDINGS FOR INCOME WITHHOLDING; AMENDING SECTION 32-1212, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO GOVERN SERVICE OF INCOME WITHHOLDING ORDER IN A JUDICIAL PROCEEDING, TO CORRECT A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1209, IDAHO CODE, TO GOVERN SERVICE OF INCOME WITHHOLDING ORDER IN AN ADMINISTRATIVE PROCEEDING; AMENDING SECTION 32-1210, IDAHO CODE, TO SPECIFY THE EMPLOYER'S DUTIES AND RESPONSIBILITIES AND DISTRIBUTIONS OF AMOUNTS WITHHELD; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1211, IDAHO CODE, TO SPECIFY PENALTIES FOR EMPLOYERS; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1212, IDAHO CODE, TO REQUIRE FILING IDENTIFYING INFORMATION BY OBLIGORS AND OBLIGEES; AMENDING SECTION 32-1215, IDAHO CODE, TO REDESIGNATE THE SECTION, TO CORRECT A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 32-1216, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1215, IDAHO CODE, TO SPECIFY PROCEDURES FOR TERMINATION OF INCOME WITHHOLDING UPON OBLIGOR'S REQUEST IN A JUDICIAL PROCEEDING; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1216, IDAHO CODE, TO SPECIFY PROCEDURE FOR TERMINATION OR MODIFICATION OF INCOME WITHHOLDING UPON OBLIGEE'S REQUEST IN A JUDICIAL PROCEEDING; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1217, IDAHO CODE, TO SPECIFY PROCEDURE FOR TERMINATION OF INCOME WITHHOLDING BY THE COURT IN A JUDICIAL PROCEEDING; AND AMENDING SECTIONS 41-2145, 41-2219, 41-3442 AND 41-3929, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 41-4026, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-4717, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Sections 7-1204, 7-1205, 32-1204, 32-1207, 32-1208, 32-1209, 32-1211, 32-1213, 32-1214 and 32-1217, Idaho Code,

be, and the same are hereby repealed.

SECTION 2. That Section 7-1121, Idaho Code, be, and the same is hereby amended to read as follows:

7-1121. ORDER FOR SUPPORT -- CONTINUANCE BEYOND AGE OF 18 -- OTHER PAYMENTS BY FATHER. (1) In a proceeding in which the court has made an order of filiation, the court may direct a father possessed of sufficient means or able to earn such means to pay monthly or at other fixed periods a fair and reasonable sum for the support and education of the child until the child is eighteen (18) years of age. If the child continues his ~~format~~ high school education subsequent to reaching the age of eighteen (18) years, the court may, in its discretion, order the continuation of support payments until the child discontinues his high school education or reaches the age of nineteen (19) years, whichever is sooner.

(2) The order of filiation may direct the father to pay or reimburse amounts paid for the support of the child prior to the date of the order of filiation and may also direct him to pay or reimburse amounts paid for: (a) the funeral expenses if the child has died; (b) the necessary expenses incurred by or for the mother in connection with her confinement and recovery; and (c) such expenses in connection with the pregnancy of the mother as the court may deem proper.

(3) If the father is a minor at the time the order is entered, the order shall continue in effect as a valid order after the father reaches majority, and cannot be disaffirmed by the minor himself or personal representatives.

(4) Upon the receipt of a genetic test result with a probability of paternity of at least ninety-eight percent (98%) the court shall, upon motion by a party, order temporary support for the child pending a final order of paternity and support. The support shall be in accordance with the Idaho child support guidelines.

(5) ~~Any child support order issued or modified shall contain a provision allowing the obligee to enforce the order by income withholding and shall include the notice required in section 32-1205, Idaho Code, advising the obligor that the obligee can seek enforcement of the order by means of a mandatory income withholding order issued pursuant to this chapter without further notice to the obligor~~ All child support orders shall notify the obligor that the order will be enforced by income withholding pursuant to chapter 12, title 32, Idaho Code. 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, t~~The court shall require that the social security numbers of both the obligor and obligee be included in the order or decree.

SECTION 3. That Section 16-1622, Idaho Code, be, and the same is hereby amended to read as follows:

16-1622. SUPPORT OF COMMITTED CHILD. (a) Whenever legal custody of a child is vested in someone other than his parents, after due notice to the parent, guardian or other persons legally obligated to

care for and support the child, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum that will cover in whole or in part the support and treatment of the child after an order of temporary custody, if any, or the decree is entered. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

(b) ~~Any--child--support--order-or-decree-issued-or-modified-under this-section-shall-contain-a-provision-allowing-the-obligee-to-enforce the-order-or-decree-by--income--withholding;--and--shall--include--the notice--required--in-section-32-1205,-Idaho-Code,-advising-the-obligor that-the-obligee-can-seek-enforcement-of-the-order-or-decree-by--means of--a-mandatory-income-withholding-order-issued-pursuant-to-this-chapter-without-further-notice-to-the-obligor~~ All child support orders shall notify the obligor that the order will be enforced by income withholding pursuant to chapter 12, title 32, Idaho Code.

(c) Failure to include these provisions does not affect the validity of the support order or decree. ~~If-the-social-security-number of--the-person-obligated-to-make-child-support-payments-under-the-support-order-or-decree-is-available,-t~~The court shall require that the social security numbers of both the obligor and obligee be included in the order or decree.

SECTION 4. That Section 20-524, Idaho Code, be, and the same is hereby amended to read as follows:

20-524. SUPPORT OF JUVENILE -- REIMBURSEMENT FOR COSTS INCURRED -- PAYMENT OF DETENTION COSTS. (1) Whenever a juvenile is placed by the court in custody other than that of the juvenile's parents, guardian or custodian, after due notice to the parent, guardian or other persons legally obligated to care for and support the juvenile, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum that will cover in whole or in part the support and treatment of the juvenile. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

(2) If the juvenile is detained, the court may order that the parents or other legal guardian of the juvenile contribute to the costs of detention in an amount to be set by the court. The order may be filed and shall have the effect of a civil judgment. It is the intent of the legislature that foster parents or a parent or legal guardian receiving public assistance relating to that juvenile should not benefit from the continued receipt of payments or public assistance from any state or federal agency while the juvenile is detained. The department of health and welfare is directed to promulgate a rule implementing this intent.

(3) ~~Any-child-support-order-or-decree-issued--or--modified--shall contain--a--provision--allowing--the--obligee--to-enforce-the-order-or decree-by-income-withholding-and-shall-include-the-notice-required--in~~

~~section-32-1205,-Idaho-Code,-advising-the-obligor-that-the-obligee-can seek-enforcement-of-the-order-or-decree-by-means-of-a-mandatory-income withholding--order--issued--pursuant--to--this-chapter-without-further notice-to-the-obligor~~ All child support orders shall notify the obligor that the order will be enforced by income withholding pursuant to chapter 12, title 32, Idaho Code.

(4) Failure to include these provisions does not affect the validity of the support order or decree. ~~If-the-social-security-number of--the-person-obligated-to-make-child-support-payments-under-the-support-order-or-decree-is-available,-t~~The court shall require that the social security numbers of both the obligor and obligee be included in the order or decree.

(5) If the juvenile is committed to the custody of the department of juvenile corrections pursuant to chapter 5, title 20, Idaho Code, the department shall reimburse the county for the period of time in excess of five (5) days during which the juvenile is housed at a detention facility. The time period shall begin to run from the day the department receives a copy of the order of commitment executed by the court. Facsimile transmissions of the order are acceptable.

SECTION 5. That Section 32-706, Idaho Code, be, and the same is hereby amended to read as follows:

32-706. CHILD SUPPORT. (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:

(a) The financial resources of the child;

(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;

(c) The standard of living the child enjoyed during the marriage;

(d) The physical and emotional condition and needs of the child and his or her educational needs;

(e) The availability of medical coverage for the child at reasonable cost;

(f) The actual tax benefit recognized by the party claiming the federal child dependency exemption.

(2) If the child continues his ~~formal~~ high school 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 (1) of this section, order the continuation of support payments until the child discontinues his high school education or reaches the age of nineteen (19) years, whichever is sooner.

(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~~ All child support orders shall notify the obligor that the order will be enforced by income withholding pursuant to chapter 12, title 32, Idaho Code. 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, t~~The court shall require that the social security numbers of both the obligor and obligee 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.

SECTION 6. That Section 32-710A, Idaho Code, be, and the same is hereby amended to read as follows:

32-710A. SUPPORT PAYMENTS PAID TO ~~CLERK OR~~ THE DEPARTMENT OF HEALTH AND WELFARE. ~~PROSECUTING ATTORNEY TO ENFORCE PAYMENTS.~~ A. Effective October 1, 1998, a~~A~~ll payments for child support ordered pursuant to any decree of divorce~~, separate maintenance~~ or other order for support shall be paid, ~~to the clerk of the district court which entered the order or decree requiring the same,~~ unless otherwise ordered by ~~said~~ the court, ~~or upon provision of support enforcement services pursuant to section 56-203A, Idaho Code,~~ to the department of health and welfare. The ~~clerk or the~~ department shall keep a record of payments made under said order or decree and shall, within two (2) business days of receipt of such payment, transmit said payments to the person or persons entitled thereto by virtue of said order or decree. Whenever a child is in the physical care of a person or entity other than its parents and the department of health and welfare is providing child support ~~enforcement~~ services under title IV-D of the social security act, the department may, after written notice to the obligor and obligee and the opportunity for hearing set forth in paragraphs 1. through 3. of this subsection transmit payments under an order of support for said child to the person or entity who has physical care of said child, without further order of the court, whether or not such person or entity is the obligee under the support order.

1. The department shall send notice of its intent to transmit

child support payments to the person or entity who has physical care of the child by registered or certified mail to the last known address of the obligor and obligee under an order for support of the child.

2. The obligor and obligee may file a written objection to the transmittal of child support payments with a court of proper jurisdiction within fourteen (14) days from the date the notice of transmittal is mailed. A copy of the written objection shall be sent to the department of health and welfare~~,-bureau-of-child-support-services~~.

3. After hearing in a court of proper jurisdiction and entry of an order, or if no written objection is made by the obligor or obligee, the department may transmit the payments under an order of support for the child to the person or entity who has physical care of the child.

B. ~~On--any-order-or-decree-not-receiving-support-enforcement-services-from-the-department-of-health--and--welfare,--said--clerk--shall notify--the--prosecuting--attorney-of-the-county-in-which-the-order-or decree-is-entered-of-any-failure-to-comply-with-the-terms-of--payments specified--by--any-such-order-or-decree,-and-said-prosecuting-attorney shall-be-responsible-for-enforcing-said-order-or-decree-as-follows:~~

~~1.--If-the-person-required-to-pay-resides-in-the-county--in--which the--order--or--decree-was-entered,-the-prosecuting-attorney-shall institute-appropriate-action-to-enforce-the-order-or-decree.~~

~~2.--If-the-person-required-to-pay-resides-outside-the--state,--the prosecuting--attorney-shall-institute-proceedings-through-the-Uniform-Reciprocal-Enforcement-of-Support-Act.~~

~~3.--If-the-person-required-to-pay-resides-in-some-other-county--in the-state,-the-prosecuting-attorney-shall-make-such-showing-to-the district--court-which-entered-the-order-or-decree-and-upon-further order-of-the-court-shall-forward-two-(2)-certified-copies--of--the order--or-decree-with-all-modifications-together-with-two-(2)-certified-copies-of-the-payment-record-to-the-clerk-of--the--district court--of--the-county-in-which-the-person-required-to-pay-resides. Said-clerk-shall-file-and-docket-one-(1)--copy--of--the--order--or decree-and-payment-record-without-fee-and-deliver-the-other-copies to--the--prosecuting--attorney--of-that-county-who-shall-institute appropriate-action-to-enforce-the-order-or-decree.~~

~~C.--Upon-the-filing-and-docketing-of-the-certified-copies--of--the order--or--decree--and--payment--record,-said-order-or-decree-shall-be enforced,-and-may-be-modified-as-to-the-amount-of-payment-required,-by the-district-court-in-that-county-as-if--originally--entered--in--that county.--The--procedure--for--the--enforcement-or-modification-of-said order-or-decree-as-to-amount-of-payment-shall-be-the-same--as--in--the case-of-an-order-or-decree-originally-entered-in-that-court,-including the--power-to-punish-the-person-required-to-pay-for-contempt.-Any-payments-made-as-a-result-of-proceedings-in-that-court-shall-be--made--as provided--in--subsection--A.-and-the-clerk-or-the-department-of-health and-welfare-shall-keep-a-record-of-such-payments--and--shall--transmit said--payments--to-the-person-or-persons-entitled-thereto-by-virtue-of said-order-or-decree.~~

~~D.--If-the-district-court-in-a-county-other--than--the--county--in which--the--order-or-decree-is-entered-modifies-the-order-or-decree-as~~

~~to-the-amount-of-payment-required,-the-clerk-of-that-court-shall--send a--certified--copy-of-the-order-modifying-the-original-order-or-decree to-the-clerk-of-the-court-in-the-county-in-which-the-order--or--decree was-originally-entered-and-the-latter-clerk-shall-file-the-same-in-the action-in-which-the-original-order-or-decree-was-entered.~~

~~E.--If--the--person-required-to-pay-changes-his-residence-from-any county-to-which-certified-copies-of-the-order-or--decree--and--payment record--have--been--forwarded--as-herein-provided,-and-the-prosecuting attorney-of-that--county--discovers--that--the--defendant--resides--in another-county-of-this-state,-the-prosecuting-attorney-shall-make-such showing--to--the-district-court-and-upon-order-of-the-court-shall-forward-the-entire-file-to-the-clerk-of-the-district-court-of-the--county where--the--defendant-resides,-where-the-same-proceedings-shall-be-had for-enforcement-or-modification-as-herein-provided.~~

~~F.--When-the-department-of-health-and-welfare-is-providing-support enforcement-services-and-the-support-order-or-decree--directs--payment to-be-made-through-the-clerk-of-the-court-or-any-entity-other-than-the department,-the-department-shall:~~

~~1.--Make-reasonable-attempts-to-provide-written-notice-to-the-person--required--to--pay--when-support-payments-shall-be-made-to-the department-of-health-and-welfare-and-again-when--payments--to--the department-are-to-cease.~~

~~2.--Provide--written--notice-to-the-clerk-in-the-county-where-payments-were-required-to-be-paid-when-support-payments-shall-be-paid to-the-department-of-health-and-welfare,-and-any--payments--subsequently--received--by--the-clerk-shall-be-forwarded-to-the-department.~~

~~3.--Maintain-a-record-of-payments-made-under-said-order-or--decree and--transmit--the--payments--to--the--person--or-persons-entitled thereto-by-virtue-of-said-order-or-decree--or--the--assignment--of rights-thereof.~~

~~4.--Provide--written--notice-to-the-clerk-in-the-county-where-payments-were-last-required-to-be-paid-together-with-two--(2)--certified--copies--of--the--department--of-health-and-welfare's-payment record-when-payments-to-the-department-are-to-cease.~~

~~G.--Any-support-order-or-decree-issued-or-modified-under-this-section-shall-contain-a-provision-allowing-the--obligee--to--enforce--the order--or--decree--by--income-withholding-and-shall-include-the-notice required-in-section-32-1205,-Idaho-Code,-advising-the-obligor-that-the obligee-can-seek-enforcement-of-the-order-or-decree-by-means-of-a-mandatory-income-withholding-order-issued-pursuant-to-this-chapter--without-further-notice-to-the-obligor~~ Any person entitled to receive child support payments pursuant to any decree of divorce or other order for support may make application for enforcement services to the department of health and welfare as provided in section 56-203A, Idaho Code, when child support is not being paid as ordered.

C. All child support orders shall provide that the order will be enforced by income withholding pursuant to chapter 12, title 32, Idaho Code. Failure to include this provision does not affect the validity of the support order or decree. ~~If-the-social-security-number-of-the person-obligated-to-make-support-payments-under-the-support--order--or decree-is-available,-t~~The court shall require that the social security numbers of both the obligor and obligee be included in the order or

decree.

SECTION 7. That Section 32-1202, Idaho Code, be, and the same is hereby amended to read as follows:

32-1202. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Business day" means a day on which state offices are open for regular business.

(2) "Child support services" means support enforcement or collection and disbursement services.

(3) "Current support" means the present month's required support pursuant to an order that is to be paid in increments, excluding amounts ordered to satisfy a delinquency.

(4) "Delinquency" means the amount of unpaid support that has accrued from the date a child support order is entered or an amount due on a judgment for support for a prior period.

(5) "Department" means the department of health and welfare.

(~~2~~6) "Dependent child" means any child for whom a support order has been established or for whom a duty of support is owed.

(~~3~~7) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld.

(~~4~~8) "Duty of support" means the duty to provide for the needs of a dependent child, which may include the costs of necessary food, clothing, shelter, education, and health care including health insurance premiums for the child. The duty includes any obligation to make monetary payment, to pay expenses or to reimburse another person or an agency for the cost of necessary support furnished a dependent child. The duty may be imposed by court order, by operation of law, or otherwise.

(~~5~~9) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program ~~any-form-of-payment-to-an-individual,-regardless-of-source,--including,--but-not-limited-to,-wages,-salary,-bonus,-commission,-compensation-for-services-rendered-or-goods--sold, --compensation as--an-independent-contractor;-and-notwithstanding-any-other-provision of-law-making-the-payments-exempt--from--garnishment,--attachment,--or other--process--to--satisfy-support-obligations,-specifically-includes periodic-payments-pursuant-to-pension-and-annuity-or--retirement--programs,--or-disability-or-insurance-policies-of-any-type,-with-the-following-exceptions:~~

~~(a)--Payments-made-under-chapter-13,-title-72,-Idaho--Code,--shall be--exempt--from-the-provisions-of-this-chapter,-and-shall-only-be withheld-pursuant-to-the--provisions--of--section--72-1365,--Idaho Code,-and-chapter-12,-title-7,-Idaho-Code;~~

~~(b)--Payments-made-under-chapter-8,-title-72,-Idaho-Code,-shall-be exempt--from--the--provisions--of--this-chapter,-and-shall-only-be withheld-pursuant-to-the-provisions-of-section-72-802,-Idaho-Code, and-chapter-12,-title-7,-Idaho-Code;~~

~~(c)--Payments-made-under-title-56,-Idaho--Code,--shall--be--exempt from-the-provisions-of-this-chapter.~~

(~~6~~10) "Employer" includes the United States government, a state or local unit of government, and any person or entity who pays or owes income to the obligor.

(~~7~~11) "Income" means any form of periodic payment to an individual, regardless of source, including, but not limited to, wages, salary, bonus, commission, compensation for services rendered or goods sold, compensation as an independent contractor; and notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support obligations, specifically includes periodic payments pursuant to pension and annuity or retirement programs, or disability or insurance policies of any type, with the following exceptions:

(a) Unemployment compensation ~~p~~Payments made under chapter 13, title 72, Idaho Code, shall be exempt from the provisions of this chapter, and shall only be withheld pursuant to the provisions of section 72-1365, Idaho Code, and chapter 12, title 7, Idaho Code;

(b) Worker's compensation ~~p~~Payments made under chapter 8, title 72, Idaho Code, shall be exempt from the provisions of this chapter, and shall only be withheld pursuant to the provisions of section 72-802, Idaho Code, and chapter 12, title 7, Idaho Code;

(c) Public assistance ~~p~~Payments made under title 56, Idaho Code, shall be exempt from the provisions of this chapter.

(~~8~~12) "Obligee" means any person, state agency or bureau entitled by order to receive child support payments or child and spousal support payments, or the person or agency to whom the right to receive or collect support has been assigned.

(~~9~~13) "Obligor" means any person obligated by order to pay child or spousal support.

(~~10~~4) "Spousal support" means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support.

(~~11~~5) "Support order" means a judgment, decree, or order issued by a magistrate or district court of the state of Idaho creating a duty of support for a minor child, spouse or former spouse, as herein defined; or a judgment, decree, order or administrative ruling issued by a court or agency of competent jurisdiction in another state or country, creating a duty of support for a minor child, spouse or former spouse, as herein defined, which has been registered or otherwise made enforceable in this state.

SECTION 8. That Section 32-1205, Idaho Code, be, and the same is hereby amended to read as follows:

32-1205~~4~~. ~~MANDATORY~~ NOTICE OF IMMEDIATE INCOME WITHHOLDING. (1) ~~Any support order or decree issued or modified after July 1, 1986, shall include a provision allowing the obligee to enforce the order or decree by income withholding if arrearages at least equal to the support payable for one (1) month accumulate under the order or decree; and shall include a statement in substantially the following form:~~

~~NOTICE OF INCOME WITHHOLDING~~

~~This support order is enforceable by income withholding under chapter 12, title 32, Idaho Code. Whenever there are~~

~~arrearages--at-least-equal-to-the-support-payment-for-one-(1)-month,-a-mandatory-income-withholding-order-may-be-issued--by-the--court--to--your--employer--or--other-person-who-pays-you-income,-without-prior-notice-to-you.~~

~~It-is-not-necessary-for-the-obligee-to-apply-for-support-enforcement-services-under-title-IV-D-of-the-social--security-act--(42--U.S.C.--651--et-seq.)-to-obtain-enforcement-of-this-support-order-by-means-of-income-withholding.~~

The court shall order income withholding in all support orders effective the date of the order unless an exception is granted by the court pursuant to subsection (2) of this section. All support orders shall notify the obligor that income withholding shall be enforced by a withholding order issued to the obligor's employer, without additional notice to the obligor.

(2) ~~Any-support-order-or-decree-issued-or-modified-at-the-request-of--the--department--of-health-and-welfare-after-July-1,-1990,-and-any-other-support-order-or-decree-issued-or-modified--after--December--31,-1993,--shall-provide-for-automatic-and-immediate-income-withholding-by-the-obligee-as-of-the-effective-date-of-the--order--or--decree--except-where~~ Immediate income withholding shall not be ordered if:

(a) One (1) of the parties demonstrates and the court makes a specific written finding that there is good cause not to require immediate income withholding. A finding of good cause by the court must be based on, at a minimum:

(i) A written determination and explanation of why implementing immediate withholding would not be in the best interests of the child; and

(ii) Proof of timely payment of previously ordered support in cases involving the modification of support orders; or

(b) A written agreement is reached between the obligor and obligee and the ~~state-of-Idaho,~~ department ~~of--health--and--welfare,-bureau--of-child-support-enforcement~~ in cases where the department is providing child support ~~enforcement~~ services, which provides for an alternative arrangement, and such agreement is determined by the court to be in the best interests of the child.

~~The-order-or-decree-shall-include-a--statement--in--substantially--the-following-form:~~

~~NOTICE-OF-AUTOMATIC-AND-IMMEDIATE-INCOME-WITHHOLDING~~

~~This-support-order-is-enforceable-by-automatic-and-immediate--income--withholding--as--of-the-effective-date-of-this-order-under-chapter-12,-title-32,-Idaho-Code.-This--automatic-and-immediate-income-withholding-order-shall-be-issued-by-the-department--of--health--and--welfare-or-other-obligee-to-your-employer-or-other-person-who-pays-your-income,-without--additional-notice-to-you.~~

(3) Failure to ~~include-these-provisions~~ provide for income withholding does not affect the validity of the support order ~~or--decree.-If--the--social--security-number-of-the-person-obligated-to-make-child-support-payments-under-the-support-order-or-decree-is--available,--the-court--shall-require-that-the-social-security-number-of-the-obligor-be-included-in-the-order-or-decree.~~

~~(4)--If-one-of-the-exceptions-to-immediate-income-withholding-pursuant-to-the-provisions-of-subsection-(2)(a)-or-(2)(b)-of-this-section~~

~~are-met;-the-order-shall-nevertheless-include-a-provision-allowing-the obligee-to-enforce-the--order--or--decree--by--income--withholding--if arrearages--at--least--equal--to-the-support-payable-for-one-(1)-month accumulate-under-the-order-or-decree;-and-shall-include-a-statement-in substantially-the-form-of-the-"Notice-of-Income-Withholding"-specified in-subsection-(1)-of-this-section.~~

SECTION 9. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1205, Idaho Code, and to read as follows:

32-1205. INCOME WITHHOLDING UPON A DELINQUENCY. If a support order does not include immediate income withholding, the obligor is subject to income withholding upon a delinquency at least equal to the child support payment for one (1) month, without the need for a judicial or administrative hearing.

SECTION 10. That Section 32-1206, Idaho Code, be, and the same is hereby amended to read as follows:

32-1206. ~~REQUEST--FOR--MANDATORY~~ JUDICIAL PROCEEDINGS FOR INCOME WITHHOLDING. (1) A proceeding to enforce a duty of support is commenced:

(a) By filing a petition or complaint for an original action; or

(b) By motion in an existing action or under an existing case number.

(2) Venue for the action is in the district court of the county where the dependent child resides or is present, where the obligor resides, or where the prior support order was entered. The petition or motion may be filed by the obligee, the state, or any agency providing care or support to the dependent child.

(3) A filing fee shall not be assessed in cases brought on behalf of the state of Idaho.

(4) A petition or motion ~~seeking-a-mandatory--income--withholding order--in-an-action-under-section-32-1204,-Idaho-Code,-may-be-filed-by an-obligee-whenever-there-are-arrearages-at-least-equal-to--the--child support--payment--for--one--(1)--month.--The--petition-or-motion~~ shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the income withholding order, ~~including~~ pursuant to section 32-1204 or 32-1205, Idaho Code, and:

(a) ~~That-the-obligor,-stating-his--or--her~~ The name, ~~residence~~ address, and social security number~~,-is-in-arrears-under-a-support order--in--an--amount-equal-to-or-greater-than-the-support-payable for-one-(1)-month~~ of the obligor;

(b) A ~~description-of-the-terms~~ copy of the support order ~~requiring-the-payment-of-support,-and-the-amount-past-due~~;

(c) The name and address of the obligor's employer;

(d) ~~That--the--support--order-includes-a-provision-which-complies with-section-32-1205,-Idaho-Code,-allowing-enforcement--by--income withholding,--and--that-a-copy-of-the-order-is-attached~~ The amount of any delinquency; and

(e) In cases not filed by the state, whether the obligee has

received public assistance from any source on behalf of the minor child, and, if so, from which source(s).

~~(2)--Effective-January-1,-1994,-a-petition-or--motion--seeking--an immediate-income-withholding-order-in-an-action-under-section-32-1204, Idaho--Code,--may--be--filed--by--an--obligee-or-obligor-regardless-of whether-arrearages-have-accrued-under-the-support-order.-The--petition or--motion-shall-include-a-sworn-statement-by-the-obligee,-stating-the facts-authorizing--the--issuance--of--the--income--withholding--order, including:~~

~~(a)--That--the--obligor,--stating--his-or-her-name,-residence,-and social-security-number,-owes-a-duty-of--support--under--a--support order;~~

~~(b)--A-description-of-the-terms-of-the-support-order-requiring-the payment-of-support,-and-the-amount-past-due,-if-any;~~

~~(c)--The-name-and-address-of-the-obligor's-employer;~~

~~(d)--That--the--support--order-includes-a-provision-which-complies with-section-32-1205,-Idaho-Code,-allowing-enforcement-by--immediate--income-withholding,-and-that-a-copy-of-the-order-is-attached; and~~

~~(e)--In-cases-not-filed-by-the--state,--whether--the--obligee--has received--public-assistance-from-any-source-on-behalf-of-the-minor child,-and,-if-so,-from-which-source(s).~~

(5) Upon receipt of a petition or motion, the court shall issue an income withholding order pursuant to section 32-1204 or 32-1205, Idaho Code, to the employer and shall provide a form for an answer to the income withholding order which shall be returned to the court within ten (10) days. The court shall also order the employer to remit the amount withheld to the person or entity designated in the income withholding order within seven (7) business days after the date the amount would have been paid or credited to the obligor. The department shall supply each county with forms for income withholding orders and answers that comply with the rules promulgated by the department, and which include:

(a) The maximum amount of current support, if any, to be withheld from the obligor's earnings each month, or from each earnings disbursement; and

(b) The total amount of the arrearage or reimbursement judgment previously entered by the court, if any, together with interest, if any;

(c) The amount of arrearage payments specified in the support order, if any.

(6) If the petition or motion indicates the obligee has received public assistance from any source on behalf of a minor child, the clerk shall immediately forward a copy of the petition or the motion to the department.

(7) The court retains continuing jurisdiction under this chapter until all duties of support of the obligor, including any delinquency, have been satisfied or until the order is otherwise unenforceable.

SECTION 11. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1207, Idaho Code, and to read as follows:

32-1207. ADMINISTRATIVE PROCEEDINGS FOR INCOME WITHHOLDING. Upon application by any obligee or obligor, the department may order income withholding pursuant to this chapter for payment of current support, any delinquency, and costs or fees pursuant to a support order as follows:

(1) If the support order provides for immediate income withholding pursuant to section 32-1204, Idaho Code, the department shall commence income withholding.

(2) If the support order does not provide for immediate income withholding, the department shall commence income withholding upon a delinquency, and shall also notify the obligor:

(a) Of the amount of the delinquency owed and the amount of income withheld;

(b) That the provision applies to all subsequent employers;

(c) Of the right to request an administrative review; and

(d) That the review is limited to mistakes of fact, which means an error in the amount of current support or delinquency, or the identity of the alleged obligor, and that no issues may be considered that have been litigated previously. If the obligor requests an administrative review within fourteen (14) days from the day the notice was mailed, the collection of arrears by income withholding shall be stayed. The department shall review the income withholding order within thirty-five (35) days, issue a decision and amend or void the income withholding order, if necessary. Any amounts which are found to have been withheld in error due to a mistake of fact will be returned to the obligor or credited towards the obligor's future payments.

SECTION 12. That Section 32-1212, Idaho Code, be, and the same is hereby amended to read as follows:

32-12~~11~~08. SERVICE OF INCOME WITHHOLDING ORDER IN A JUDICIAL PROCEEDING. (1) The following items and documents shall be served on the employer personally or by any form of mail requiring a return receipt:

(a) Two (2) conformed copies of the income withholding order, one (1) of which is for the employer, and one (1) for the obligor;

(b) Four (4) answer forms in substantial compliance with section 32-121~~1~~0, Idaho Code;

(c) Three (3) stamped envelopes provided by the obligee and addressed to, respectively, the ~~clerk of the court where the order was issued~~ person or entity designated in the income withholding order, the obligee's attorney or the obligee, and the obligor.

(2) On or before the date of service of the income withholding order on the employer, the obligee shall mail or cause to be mailed by certified mail a copy of the income withholding order to the obligor at the obligor's last known post-office address.

SECTION 13. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1209, Idaho Code, and to read as follows:

32-1209. SERVICE OF INCOME WITHHOLDING ORDER IN AN ADMINISTRATIVE

PROCEEDING. (1) The department shall send the income withholding order to the employer by certified mail.

(2) At the same time the withholding order is mailed to the employer, the department shall mail a copy of the income withholding order to the obligor at the obligor's last known post-office address.

SECTION 14. That Section 32-1210, Idaho Code, be, and the same is hereby amended to read as follows:

32-1210. EMPLOYER'S DUTIES AND RESPONSIBILITIES -- FEE FOR EMPLOYER. (1) ~~An--employer--upon--whom--service-of~~ Upon receiving an income withholding order ~~has-been-made-pursuant-to-this--chapter~~ from the court, the employer shall answer the income withholding order on forms supplied with the income withholding order within ten (10) days after the date of service. The employer shall deliver the original answer to the court, and shall mail one (1) copy to the obligee or obligee's attorney, and shall deliver one (1) copy to the obligor as soon as is reasonably possible. The answer shall state whether the obligor is employed by or receives ~~earnings~~ income from the employer, whether the employer will honor the income withholding order, and whether there are multiple child support income withholding orders or garnishments against the obligor. Upon receiving an income withholding order from the department, the employer shall begin income withholding pursuant to this section.

(2) ~~The-employer-shall-deliver-a-copy-of-the--income--withholding order-to-the-obligor-as-soon-as-is-reasonably-possible.~~

~~(3)~~ If the employer possesses any ~~earnings~~ income due and owing to the obligor, the ~~earnings~~ income subject to the income withholding order shall be withheld immediately upon receipt of the income withholding order. The withheld ~~earnings~~ income shall be delivered to the ~~clerk--of--the--court-that-issued-the-income-withholding-order-at-each regular-pay-interval,-but-the-first-delivery--shall--occur--no--sooner than--ten-(10)-days-after-receipt-of-the-order~~ person or entity designated in the income withholding order within seven (7) business days after the date the amount would have been paid or credited to the employee.

(3) The total amount to be withheld from the obligor's earnings each month, or from each earnings disbursement, shall not exceed fifty percent (50%) of the disposable earnings of the obligor. If the amounts to be paid toward the arrearage are specified in the support order, then the maximum amount to be withheld is the sum of the current support ordered and the amount ordered to be paid toward the arrearage, or fifty percent (50%) of the disposable earnings of the obligor, whichever is less. In no event shall the amount to be withheld from the earnings of the obligor exceed the amount specified in section 11-207, Idaho Code.

(4) When an employer receives an income withholding order issued by another state, the employer shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

(a) The employer's fee for processing an income withholding order;

(b) The maximum amount permitted to be withheld from the

obligor's income;

(c) The time periods within which the employer must implement the income withholding order and forward the child support payment;

(d) The priorities for withholding and allocating income withheld for multiple child support obligees; and

(e) Any withholding terms or conditions not specified in the income withholding order.

(5) If an obligor is subject to two (2) or more income withholding orders for child support on behalf of more than one (1) obligee, the employer may send the entire amount withheld from that obligor to the clerk of the court or, if the department is providing child support services on behalf of either obligee, to the department. If the department is providing child support services, the employer shall send the department a copy of each income withholding order under which the obligor owes a support obligation. The clerk of the court or the department shall apportion the amount of income withheld between all obligees of the obligor as follows: the support obligation for the current month shall be paid first. If the amount of nonexempt disposable income withheld is not sufficient to pay the total support obligation for the current month for each obligee for whom there is an income withholding order, the amount withheld shall be divided between each obligee for whom there is an income withholding order on a pro rata basis. If the amount of the nonexempt disposable earnings withheld is in excess of the total support obligation for the current month for each obligee for whom there is an income withholding order, the excess shall be divided between each obligee for whom there is an income withholding order which includes withholding for any delinquency on a pro rata basis unless otherwise ordered by a court.

(~~4~~6) The employer shall continue to withhold the ordered amounts from nonexempt ~~earnings~~ income of the obligor until notified by the court or the department that the income withholding order has been modified or terminated. The employer shall promptly notify the court or the department when the employee is no longer employed, and of the employee's last known address, and the name and address of his new employer, if known.

(~~5~~7) The employer may deduct a processing fee, not to exceed five dollars ($5.00), to cover the costs of each withholding. Such fee is to be withheld from the obligor's income in addition to the amount ~~to be~~ withheld to satisfy the withholding order, but the total amount withheld, including the fee, shall not exceed fifty percent (50%) of the obligor's disposable income.

(~~6~~8) The employer may combine amounts withheld from various employees for a particular entity in a pay period into a single payment for that pay period, as long as the portion thereof which is attributable to each individual employee is separately designated.

~~(7)--An-employer-may--not--discharge,--discipline,--or--refuse--to employ--an--obligor-on-the-basis-of-an-income-withholding-order-issued under-this-chapter.-If-an-employer-discharges,-disciplines,-or-refuses to-employ-an-obligor-because-of-an-income-withholding-obligation,--the obligor--shall--have--a--cause--of--action--against--the-employer.-The employer-shall-be-liable-for-double-the-amount-of-lost-wages-and-other damages-suffered-as-a-result-of-the-violation-and-for-costs--and--reasonable--attorney--fees,-and-shall-be-subject-to-a-civil-penalty-of-up~~

~~to three hundred dollars ($300) for each violation. In addition, the employer may also be ordered to hire, rehire, or reinstate the aggrieved obligor.~~

(~~8~~9) An order for income withholding for support entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment, income withholding order, or garnishment for child support.

~~(9) No employer who complies with an income withholding order issued under this chapter may be liable to the employee for wrongful withholding.~~

SECTION 15. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1211, Idaho Code, and to read as follows:

32-1211. PENALTIES FOR EMPLOYERS. (1) An employer may not discharge, discipline, or refuse to employ an obligor on the basis of an income withholding order issued under this chapter. If an employer discharges, disciplines, or refuses to employ an obligor because of an income withholding obligation, the obligor shall have a cause of action against the employer. The employer shall be liable for double the amount of lost wages and other damages suffered as a result of the violation and for costs and reasonable attorney's fees, and may be subject to a civil penalty of up to three hundred dollars ($300) for each violation. In addition, the employer may also be ordered to hire, rehire, or reinstate the aggrieved obligor.

(2) An employer who knowingly fails to retain and remit to the department an amount pursuant to the income withholding order shall be liable to the department for the amount to be retained specified in the income withholding order and may be subject to a fine of up to one hundred dollars ($100), which is a debt due and owing to the department unless:

(a) The employer notifies the department that the obligor is not in his employ and the department verifies the obligor's nonemployment and withdraws its income withholding order; or

(b) The obligor's income is not sufficient and therefore the restrictions in section 11-207, Idaho Code, apply and a lesser amount must be withheld.

(3) No employer who complies with an income withholding order that is regular on its face shall be subject to civil liability to any individual or agency for conduct in compliance with the income withholding order.

SECTION 16. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1212, Idaho Code, and to read as follows:

32-1212. IDENTIFYING INFORMATION -- FILING WITH TRIBUNAL AND CHILD SUPPORT SERVICES. Obligors and obligees shall file with the court or the department, if the department is providing child support services, identifying information including social security number,

residential and mailing address, telephone number, driver's license number, and name, address, and telephone number of their employer. Obligors and obligees shall provide written notification of any changes within thirty (30) days after such change.

SECTION 17. That Section 32-1215, Idaho Code, be, and the same is hereby amended to read as follows:

32-1215~~3~~. ORDER FOR PAYMENT OF MEDICAL EXPENSES. (1) A proceeding to enforce a support order directing the payment of medical expenses of a dependent child may be commenced as provided in section 32-1204~~6~~, Idaho Code.

(2) The petition or motion may be filed by an obligee when medical expenses not otherwise covered by insurance have been incurred in the amount of one hundred dollars ($100) or more, or when insurance premiums, deductibles, or payments on submitted claims for which payment or reimbursement is claimed to be due from the obligor equal or exceed one hundred dollars ($100). The petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the order, including:

(a) An itemization of the medical expenses, including a specific reference to any insurance premiums, deductibles, or payments on submitted claims for which payment or reimbursement is sought from the obligor;

(b) Whether such expenses have been submitted to any applicable insurance carrier or other third party payer and the results of such submission;

(c) That the obligor, stating his or her name, residence and social security number has failed or refused to pay the medical expenses or to reimburse the obligee therefor;

(d) A description of the terms of the support order requiring payment of the medical expenses claimed to be due.

(3) Upon the filing of a petition or motion and affidavit containing the information required in subsection (2) of this section, the clerk of the court shall set a hearing thereon. The obligee shall serve a copy of the petition or motion, accompanying affidavit and notice of hearing on the obligor at least ten (10) days before the date set for hearing, by personal service or certified mail, pursuant to the Idaho rules of civil procedure.

(4) After hearing, the court shall enter its order directing payment of the specific sums, if any, for which the obligor is found to be liable for previously incurred medical expenses. In addition, if the court determines that some or all of the medical expenses of the dependent child are of an ongoing or recurring nature and the anticipated amounts thereof are capable of determination to the satisfaction of the court, the court may order payment to the obligee of a specific sum per month toward such expenses.

(5) For purposes of this section "medical expenses" means any and all costs and expenses related to the health care of a dependent child, including insurance premiums and any deductible amounts, all or a portion of which are ordered to be paid by the obligor in addition to any amount awarded as child support, pursuant to a support order.

SECTION 18. That Section 32-1216, Idaho Code, be, and the same is hereby amended to read as follows:

32-1216~~4~~. HEALTH INSURANCE COVERAGE -- ENFORCEMENT. (1) Where a person is required by court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage through an employer and fails to provide such coverage or lets it lapse, the department ~~of health and welfare~~ or other obligee may seek enforcement of the coverage order as provided under this section.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the department ~~of health and welfare~~ for enforcement, then the department ~~of health and welfare~~ may, without further notice to the obligor, send a notice of intent to enroll to the obligor's employer by certified mail, return receipt requested. The notice shall require the employer to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the department ~~of health and welfare~~:

(i) The obligee may, without further notice to the obligor, send a certified copy of the order requiring health insurance coverage to the obligor's employer by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the employer to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enrollment season restrictions.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of intent to enroll:

(a) The obligor's employer shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the health insurance plan;

(ii) Cannot be covered, stating the reasons why such coverage cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the employer, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor parent;

(d) The employer or insurer shall provide the name of the health insurance coverage provider or insurer, the extent of coverage available and other necessary information to the department ~~of health and welfare~~ or other obligee and shall make available any

necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department ~~of health and welfare~~ or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department ~~of health and welfare~~ or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child because of geographic or other limitations when accessible coverage is otherwise available, the department ~~of health and welfare~~ or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department ~~of health and welfare~~ serves a notice under subsection (5) of this section, the obligor may, within thirty (30) days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department ~~of health and welfare~~ that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department ~~of health and welfare~~ serves a notice under subsection (5) of the section, within thirty (30) days of the date of service, the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the health insurance coverage specified in the notice directly. The employer shall withhold the amount of the premium from the income of the obligor. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the insurance provider.

(9) If the coverage is terminated or amended, the employer shall mail a notice of termination or amendment to the department ~~of health and welfare~~ or other obligee at the obligee's last known address within forty-five (45) days of the termination date.

(10) This section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) If the amount of the obligor's income or wages which are withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

(12) The employer shall not disenroll or eliminate coverage of any

such child unless:

(a) The employer has been provided satisfactory written evidence that the order requiring such health care coverage is no longer in effect; or

(b) The employer has received confirmation that the child is enrolled in other comparable health care coverage; or

(c) The employer has eliminated family health coverage for all of its employees; or

(d) The employee upon whose employment the health coverage is premised has ceased employment with the employer and reasonable measures have been taken to give notice to the parents or guardians of the child.

SECTION 19. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1215, Idaho Code, and to read as follows:

32-1215. TERMINATION OF INCOME WITHHOLDING UPON OBLIGOR'S REQUEST. (1) An obligor whose income is subject to withholding upon a delinquency under this chapter may request a hearing to quash, modify, or terminate the withholding, by filing a motion requesting such relief before the court which issued the income withholding order. A copy of the motion and a notice of hearing shall be served upon the obligee at least five (5) days before the date set for the hearing, by personal service or certified mail, pursuant to the Idaho rules of civil procedure.

(2) In a hearing to quash, modify, or terminate the income withholding order, the court may grant relief only upon a showing by the obligor that there is a substantial probability that the obligor would suffer irreparable injury and that the obligee would not suffer irreparable injury. Satisfaction by the obligor of any delinquency subsequent to the issuance of the income withholding order is not grounds to quash, modify, or terminate the income withholding order.

(3) If an income withholding order has been in operation for twelve (12) consecutive months and the obligor's support obligation is current, the court may terminate the order upon motion of the obligor, unless the obligee can show good cause as to why the income withholding order should remain in effect.

(4) No order to quash, modify, or terminate an income withholding order shall be issued unless the obligor provides proof to the court that the obligee has been served with a copy of the motion and notice for hearing five (5) days prior to the hearing, or that service is impossible because the obligee has moved and failed to provide the court with a current address, as required by section 32-1212, Idaho Code.

SECTION 20. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1216, Idaho Code, and to read as follows:

32-1216. TERMINATION OR MODIFICATION OF INCOME WITHHOLDING UPON

OBLIGEE'S REQUEST. The court may quash, modify or terminate an income withholding order upon written request therefor by the obligee, unless the court finds that the termination would not be in the best interests of the dependent child.

SECTION 21. That Chapter 12, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1217, Idaho Code, and to read as follows:

32-1217. TERMINATION OF INCOME WITHHOLDING BY THE COURT IN A JUDICIAL PROCEEDING. If the clerk is unable to deliver payments under the income withholding order for a period of three (3) months due to the failure of the obligee to notify the clerk of a change of address, the court shall terminate the income withholding order, and shall mail a copy of the termination order to the employer and to the obligor. The court shall return all undeliverable payments to the obligor.

SECTION 22. That Section 41-2145, Idaho Code, be, and the same is hereby amended to read as follows:

41-2145. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN. (1) Where a person is required by a court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage through a disability insurance policy, and fails to provide such coverage or lets it lapse, the department of health and welfare or other obligee may seek enforcement of the coverage order as provided under this section, except as provided in subsection (13) of this section.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the department of health and welfare for enforcement, then the department of health and welfare may, without further notice to the obligor, send a notice of intent to enroll to the obligor's insurer by certified mail, return receipt requested. The notice shall require the insurer to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the department of health and welfare:

(i) The obligee may, without further notice to the obligor, send a certified copy of the order requiring health insurance coverage to the obligor's insurer by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the insurer to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enrollment season restrictions.

(3) Upon receipt of an order that provides for health insurance

coverage, or a notice of intent to enroll:

(a) The obligor's insurer shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the health insurance plan; or

(ii) Cannot be covered, stating the reasons why such coverage cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the insurer, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor;

(d) The insurer shall provide the name of the health insurance coverage provider or insurer, the extent of coverage available and other necessary information to the department of health and welfare or other obligee and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department of health and welfare or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department of health and welfare or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child when accessible coverage is otherwise available, the department of health and welfare or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department of health and welfare serves a notice under subsection (5) of this section, the obligor may, within thirty (30) days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department of health and welfare that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department of health and welfare serves a notice under subsection (5) of this section, within thirty (30) days of the date of service, the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the

health insurance coverage specified in the notice directly. The amount of the premium shall be withheld from the income of the obligor. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the insurance provider.

(9) If the coverage is terminated or amended, the insurer shall mail a notice of termination or amendment to the department of health and welfare or other obligee at the obligee's last known address within forty-five (45) days of the termination date.

(10) The provisions of this section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) If the amount of the obligor's income or wages which are withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

(12) An insurer shall not deny enrollment of a child under the health coverage of the child's parent for the reason that:

(a) The child was born out of wedlock; or

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the insurer's service area.

(13) In any case in which a parent is required by a court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through an insurer, the insurer shall permit such parent, the other parent of the child, or the department of health and welfare to enroll under such family coverage, as specified under section 32-1216<u>4</u>, Idaho Code, any such child who is otherwise eligible for such coverage without regard to any enrollment season restrictions. The insurer shall not disenroll or eliminate coverage of such a child unless the insurer is provided with satisfactory evidence that:

(a) Such court or administrative order is no longer in effect; or

(b) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(14) An insurer shall not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

(15) An insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent shall:

(a) Provide such information to a custodial parent or the department of health and welfare as may be necessary for the child to obtain benefits through such coverage;

(b) Permit the custodial parent, provider or department of health and welfare to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payment on claims submitted by the custodial parent, the provider or the department of health and welfare directly to the party submitting the claim.

(16) (a) An insurer may not consider the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. section 1396a, (Section 1902 of the Social Security Act) herein referred to as medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(b) To the extent that payment for covered expenses has been made under the state medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the department of health and welfare is subrogated to the rights of the individual to payment by any other party for those health care items or services.

(17) The insurer may disenroll for nonpayment of premium or dues, fraud, misrepresentation, or for failure to comply with minimum participation requirements.

SECTION 23. That Section 41-2219, Idaho Code, be, and the same is hereby amended to read as follows:

41-2219. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN. (1) Where a person is required by a court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage through a group disability insurance contract or a blanket disability insurance contract, and fails to provide such coverage or lets it lapse, the department of health and welfare or other obligee may seek enforcement of the coverage order as provided under this section, except as provided in subsection (13) of this section.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the department of health and welfare for enforcement, then the department of health and welfare may, without further notice to the obligor, send a notice of intent to enroll to the obligor's insurer by certified mail, return receipt requested. The notice shall require the insurer to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the department of health and welfare:

(i) The obligee may, without further notice to the obligor, send a certified copy of the order requiring health insurance coverage to the obligor's insurer by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the insurer to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enroll-

ment season restrictions.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of intent to enroll:

(a) The obligor's insurer shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the health insurance plan; or

(ii) Cannot be covered, stating the reasons why such coverage cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the insurer, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor;

(d) The insurer shall provide the name of the health insurance coverage provider or insurer, the extent of coverage available and other necessary information to the department of health and welfare or other obligee and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department of health and welfare or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department of health and welfare or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child when accessible coverage is otherwise available, the department of health and welfare or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department of health and welfare serves a notice under subsection (5) of this section, the obligor may, within thirty (30) days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department of health and welfare that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department of health and welfare serves a notice under subsection (5) of this section, within thirty (30) days of the date of service, the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under sub-

section (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the health insurance coverage specified in the notice directly. The amount of the premium shall be withheld from the income of the obligor. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the insurance provider.

(9) If the coverage is terminated or amended, the insurer shall mail a notice of termination or amendment to the department of health and welfare or other obligee at the obligee's last known address within forty-five (45) days of the termination date.

(10) The provisions of this section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) If the amount of the obligor's income or wages which are withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

(12) An insurer shall not deny enrollment of a child under the health coverage of the child's parent for the reason that:

(a) The child was born out of wedlock; or

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the insurer's service area.

(13) In any case in which a parent is required by a court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through an insurer, the insurer shall permit such parent, the other parent of the child, or the department of health and welfare to enroll under such family coverage, as specified under section 32-1216<u>4</u>, Idaho Code, any such child who is otherwise eligible for such coverage without regard to any enrollment season restrictions. The insurer shall not disenroll or eliminate coverage of such a child unless the insurer is provided with satisfactory evidence that:

(a) Such court or administrative order is no longer in effect; or

(b) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(14) An insurer shall not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

(15) An insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent shall:

(a) Provide such information to a custodial parent or department of health and welfare as may be necessary for the child to obtain benefits through such coverage;

(b) Permit the custodial parent, provider or department of health

and welfare to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payment on claims submitted by the custodial parent, the provider or the department of health and welfare directly to the party submitting the claim.

(16) (a) An insurer may not consider the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. section 1396a, (Section 1902 of the Social Security Act) herein referred to as medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(b) To the extent that payment for covered expenses has been made under the state medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the department of health and welfare is subrogated to the rights of the individual to payment by any other party for those health care items or services.

(17) The insurer may disenroll for nonpayment of premium or dues, fraud, misrepresentation, or for failure to comply with minimum participation requirements.

SECTION 24. That Section 41-3442, Idaho Code, be, and the same is hereby amended to read as follows:

41-3442. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN. (1) Where a person is required by a court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage through a hospital or service organization, and fails to provide such coverage or lets it lapse, the department of health and welfare or other obligee may seek enforcement of the coverage order as provided under this section, except as provided in subsection (13) of this section.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the department of health and welfare for enforcement, then the department of health and welfare may, without further notice to the obligor, send a notice of intent to enroll to the obligor's hospital or service organization by certified mail, return receipt requested. The notice shall require the hospital or service organization to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the department of health and welfare:

(i) The obligee may, without further notice to the obligor, send a certified copy of the order requiring health insurance coverage to the obligor's hospital or service organization by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the hospital or

service organization to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enrollment season restrictions.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of intent to enroll:

(a) The obligor's hospital or service organization shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the health insurance plan; or

(ii) Cannot be covered, stating the reasons why such coverage cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the hospital or service organization, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor;

(d) The hospital or service organization shall provide the name of the health insurance coverage provider or hospital or service organization, the extent of coverage available and other necessary information to the department of health and welfare or other obligee and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department of health and welfare or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department of health and welfare or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child when accessible coverage is otherwise available, the department of health and welfare or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department of health and welfare serves a notice under subsection (5) of this section, the obligor may, within thirty (30) days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department of health and welfare that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department of health and welfare serves a notice under subsection (5) of this section, within thirty (30) days of the date of service, the obligor shall provide written

proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the health insurance coverage specified in the notice directly. The amount of the premium shall be withheld from the income of the obligor. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the insurance provider.

(9) If the coverage is terminated or amended, the hospital or service organization shall mail a notice of termination or amendment to the department of health and welfare or other obligee at the obligee's last known address within forty-five (45) days of the termination date.

(10) The provisions of this section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) If the amount of the obligor's income or wages which are withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

(12) A hospital or service organization shall not deny enrollment of a child under the health coverage of the child's parent for the reason that:

(a) The child was born out of wedlock; or

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the hospital or service organization's service area.

(13) In any case in which a parent is required by a court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through a hospital or service organization, the service organization shall permit such parent, the other parent of the child, or the department of health and welfare to enroll under such family coverage, as specified under section 32-1216<u>4</u>, Idaho Code, any such child who is otherwise eligible for such coverage without regard to any enrollment season restrictions. The hospital or service organization shall not disenroll or eliminate coverage of such a child unless the hospital or service organization is provided with satisfactory evidence that:

(a) Such court or administrative order is no longer in effect; or

(b) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(14) A hospital or service organization shall not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance and covered for health benefits from the hospital or service organization, that are different from requirements applicable to an agent or assignee of any other

individual so covered.

(15) A hospital or service organization, in any case in which a child has health coverage through the hospital or service organization of a noncustodial parent shall:

(a) Provide such information to a custodial parent or department of health and welfare as may be necessary for the child to obtain benefits through such coverage;

(b) Permit the custodial parent, provider or department of health and welfare to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payment on claims submitted by the custodial parent, the provider or the department of health and welfare directly to the party submitting the claim.

(16) (a) A hospital or service organization may not consider the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. section 1396a, (Section 1902 of the Social Security Act) herein referred to as medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(b) To the extent that payment for covered expenses has been made under the state medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the department of health and welfare is subrogated to the rights of the individual to payment by any other party for those health care items or services.

(17) The insurer may disenroll for nonpayment of premium or dues, fraud, misrepresentation, or for failure to comply with minimum participation requirements.

SECTION 25. That Section 41-3929, Idaho Code, be, and the same is hereby amended to read as follows:

41-3929. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN. (1) Where a person is required by a court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage under a managed care plan, and fails to provide such coverage or lets it lapse, the department of health and welfare or other obligee may seek enforcement of the coverage order as provided under this section, except as provided in subsection (13) of this section.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the department of health and welfare for enforcement, then the department of health and welfare may, without further notice to the obligor, send a notice of intent to enroll to the obligor's managed care organization by certified mail, return receipt requested. The notice shall require the managed care organization to enroll the child in the managed care plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance

coverage does not order payments through, and has not been submitted to, the department of health and welfare:

(i) The obligee may, without further notice to the obligor, send a certified copy of the order requiring health insurance coverage to the obligor's managed care organization by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the managed care organization to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enrollment season restrictions.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of intent to enroll:

(a) The obligor's managed care organization shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the managed care plan; or

(ii) Cannot be covered, stating the reasons why such coverage cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the managed care organization, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor;

(d) The managed care organization shall provide the name of the health insurance coverage provider or insurer, the extent of coverage available and other necessary information to the department of health and welfare or other obligee and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department of health and welfare or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department of health and welfare or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child when accessible coverage is otherwise available, the department of health and welfare or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department of health and welfare serves a notice under subsection (5) of this section, the obligor may, within thirty (30)

days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department of health and welfare that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department of health and welfare serves a notice under subsection (5) of this section, within thirty (30) days of the date of service, the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the health insurance coverage specified in the notice directly. The amount of the premium shall be withheld from the income of the obligor. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the managed care organization.

(9) If the coverage is terminated or amended, the managed care organization shall mail a notice of termination or amendment to the department of health and welfare or other obligee at the obligee's last known address within forty-five (45) days of the termination date.

(10) The provisions of this section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) If the amount of the obligor's income or wages which are withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

(12) A managed care organization shall not deny enrollment of a child under the health coverage of the child's parent for the reason that:

(a) The child was born out of wedlock; or

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the managed care organization's service area.

(13) In any case in which a parent is required by a court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage under a managed care plan, the managed care organization shall permit such parent, the other parent of the child, or the department of health and welfare to enroll under such family coverage, as specified under section 32-1216~~3~~4, Idaho Code, any such child who is otherwise eligible for such coverage without regard to any enrollment season restrictions. The managed care organization shall not disenroll or eliminate coverage of such a child unless the managed care organization is provided with satisfactory evidence that:

(a) Such court or administrative order is no longer in effect; or

(b) The child is or will be enrolled in comparable health cover-

age through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(14) A managed care organization shall not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance and covered under the organization's managed care plan, that are different from requirements applicable to an agent or assignee of any other individual so covered.

(15) A managed care organization, in any case in which the noncustodial parent of the child has health coverage under the organization's managed care plan shall:

(a) Provide such information to a custodial parent or the department of health and welfare as may be necessary for the child to obtain benefits through such coverage;

(b) Permit the custodial parent, provider or the department of health and welfare to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payment on claims submitted by the custodial parent, the provider or the department of health and welfare directly to the party submitting the claim.

(16) (a) A managed care organization may not consider the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. section 1396a, (Section 1902 of the Social Security Act) herein referred to as medicaid, when considering eligibility for coverage or making payments under its plan for eligible members, policyholders or certificate holders.

(b) To the extent that payment for covered expenses has been made under the state medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the department of health and welfare is subrogated to the rights of the individual to payment by any other party for those health care items or services.

(17) The managed care organization may disenroll for nonpayment of premium or dues, fraud, misrepresentation, or for failure to comply with minimum participation requirements.

SECTION 26. That Section 41-4026, Idaho Code, be, and the same is hereby amended to read as follows:

41-4026. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN. (1) Where a person is required by a court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage through a self-funded insurer, and fails to provide such coverage or lets it lapse, the department of health and welfare or other obligee may seek enforcement of the coverage order as provided under this section, except as provided in subsection (13) of this section.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the department of health and welfare for enforcement, then the depart-

ment of health and welfare may, without further notice to the obligor, send a notice of intent to enroll to the obligor's insurer by certified mail, return receipt requested. The notice shall require the insurer to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the department of health and welfare:

(i) The obligee may, without further notice to the obligor, send a certified copy of the order requiring health insurance coverage to the obligor's insurer by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the insurer to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enrollment season restrictions.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of intent to enroll:

(a) The obligor's insurer shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the health insurance plan; or

(ii) Cannot be covered, stating the reasons why such coverage cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the insurer, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor;

(d) The insurer shall provide the name of the health insurance coverage provider or insurer, the extent of coverage available and other necessary information to the department of health and welfare or other obligee and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department of health and welfare or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department of health and welfare or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child when accessible coverage is otherwise available, the department of

health and welfare or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department of health and welfare serves a notice under subsection (5) of this section, the obligor may, within thirty (30) days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department of health and welfare that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department of health and welfare serves a notice under subsection (5) of this section, within thirty (30) days of the date of service, the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the health insurance coverage specified in the notice directly. The amount of the premium shall be withheld from the income of the obligor. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the insurance provider.

(9) If the coverage is terminated or amended, the insurer shall mail a notice of termination or amendment to the department of health and welfare or other obligee at the obligee's last known address within forty-five (45) days of the termination date.

(10) The provisions of this section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) If the amount of the obligor's income or wages which are withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

(12) An insurer shall not deny enrollment of a child under the health coverage of the child's parent for the reason that:

(a) The child was born out of wedlock; or

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the insurer's service area.

(13) In any case in which a parent is required by a court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through an insurer, the insurer shall permit such parent, the other parent of the child, or the department of health and welfare to enroll under such family coverage, as specified under section 32-1216~~3~~4, Idaho Code, any such child who is otherwise eligible for such coverage without regard to any enrollment season restrictions. The ~~an~~ insurer shall not disenroll or eliminate coverage of such a child unless the insurer is provided with satisfactory evidence that:

(a) Such court or administrative order is no longer in effect; or

(b) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(14) An insurer shall not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

(15) An insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent shall:

(a) Provide such information to a custodial parent or department of health and welfare as may be necessary for the child to obtain benefits through such coverage;

(b) Permit the custodial parent, provider or department of health and welfare to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payment on claims submitted by the custodial parent, the provider or the department of health and welfare directly to the party submitting the claim.

(16) (a) An insurer may not consider the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. section 1396a, (Section 1902 of the Social Security Act) herein referred to as medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(b) To the extent that payment for covered expenses has been made under the state medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the department of health and welfare is subrogated to the rights of the individual to payment by any other party for those health care items or services.

(17) An employer may disenroll for nonpayment of premium or dues, fraud, misrepresentation, or for failure to comply with minimum participation requirements.

SECTION 27. That Section 41-4717, Idaho Code, be, and the same is hereby amended to read as follows:

41-4717. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN. (1) Where a person is required by a court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage through a small employer health insurance carrier, and fails to provide such coverage or lets it lapse, the department of health and welfare or other obligee may seek enforcement of the coverage order as provided under this section, except as provided in subsection (13) of this section.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the

department of health and welfare for enforcement, then the department of health and welfare may, without further notice to the obligor, send a notice of intent to enroll to the obligor's small employer health insurance carrier by certified mail, return receipt requested. The notice shall require the small employer health insurance carrier to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the department of health and welfare:

(i) The obligee may, without further notice to the obligor, send a certified copy of the order requiring health insurance coverage to the obligor's small employer health insurance carrier by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the small employer health insurance carrier to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enrollment season restrictions.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of intent to enroll:

(a) The obligor's small employer health insurance carrier shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the health insurance plan; or

(ii) Cannot be covered, stating the reasons why such coverage cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the small employer health insurance carrier, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor;

(d) The small employer health insurance carrier shall provide the name of the health insurance coverage provider or insurer, the extent of coverage available and other necessary information to the department of health and welfare or other obligee and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department of health and welfare or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department of health and welfare or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child when accessible coverage is otherwise available, the department of health and welfare or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department of health and welfare serves a notice under subsection (5) of this section, the obligor may, within thirty (30) days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department of health and welfare that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department of health and welfare serves a notice under subsection (5) of this section, within thirty (30) days of the date of service, the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the health insurance coverage specified in the notice directly. The amount of the premium shall be withheld from the income of the obligor. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the insurance provider.

(9) If the coverage is terminated or amended, the small employer health insurance carrier shall mail a notice of termination or amendment to the department of health and welfare or other obligee at the obligee's last known address within forty-five (45) days of the termination date.

(10) The provisions of this section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) If the amount of the obligor's income or wages which are withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

(12) A small employer health insurance carrier shall not deny enrollment of a child under the health coverage of the child's parent for the reason that:

(a) The child was born out of wedlock; or

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the small employer health insurance carrier's service area.

(13) In any case in which a parent is required by a court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through a small employer health insurance carrier, the carrier shall permit such parent, the other parent of the child, or the department of health and

welfare to enroll under such family coverage, as specified under section 32-1216<u>4</u>, Idaho Code, any such child who is otherwise eligible for such coverage without regard to any enrollment season restrictions. The small employer health insurance carrier shall not disenroll or eliminate coverage of such a child unless the small employer health insurance carrier is provided with satisfactory evidence that:

(a) Such court or administrative order is no longer in effect; or

(b) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(14) A small employer health insurance carrier shall not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance and covered for health benefits from the small employer health insurance carrier, that are different from requirements applicable to an agent or assignee of any other individual so covered.

(15) A small employer health insurance carrier, in any case in which a child has health coverage through the small employer health insurance carrier of a noncustodial parent shall:

(a) Provide such information to a custodial parent or department of health and welfare as may be necessary for the child to obtain benefits through such coverage;

(b) Permit the custodial parent, provider or department of health and welfare to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payment on claims submitted by the custodial parent, the provider or the department of health and welfare directly to the party submitting the claim.

(16) (a) A small employer health insurance carrier may not consider the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. section 1396a, (Section 1902 of the Social Security Act) herein referred to as medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(b) To the extent that payment for covered expenses has been made under the state medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the department of health and welfare is subrogated to the rights of the individual to payment by any other party for those health care items or services.

(17) An employer may disenroll for nonpayment of premium or dues, fraud, misrepresentation, or for failure to comply with minimum participation requirements.

Approved March 24, 1998.

CHAPTER 293
(H.B. No. 511)

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 9-340, IDAHO CODE, TO PROVIDE EXEMPTION FROM DISCLOSURE FOR CERTAIN RECORDS OF THE IDAHO PETROLEUM CLEAN WATER TRUST FUND; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 9-340, Idaho Code, be, and the same is hereby amended to read as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Exemption under state or federal law or court rule.

(a) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(b) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the Idaho supreme court, but only to the extent that confidentiality is provided under such rules, and any drafts or other working memoranda related to judicial decision-making, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(2) Law enforcement records, investigatory records of agencies, worker's compensation.

(a) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(b) Juvenile records of a person maintained pursuant to chapter 5, title 20, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the juvenile. If the juvenile is fourteen (14) years or older and is adjudicated guilty of an offense which would be a felony if committed by an adult, the name, offense of which the juvenile was adjudicated and disposition of the court shall be subject to disclosure. Additionally, facts contained in any records of a juvenile maintained under chapter 5, title 20, Idaho Code, shall be furnished upon request to any school district where the juvenile is enrolled or is seeking enrollment.

(c) Records of the department of correction or the commission of pardons and parole to the extent that disclosure thereof would interfere with the secure and orderly conduct of their operations,

or the rehabilitation of any person in the custody of the department of correction or on parole, or would substantially prejudice or prevent the carrying out of the functions of the department of correction or the commission of pardons and parole if the public interest in confidentiality clearly outweighs the public interest in disclosure. Records exempt from disclosure shall include, but not be limited to, those containing the names and addresses of witnesses or victims or those containing information identifying victims or witnesses.

(d) Records of the sheriff or department of law enforcement received or maintained pursuant to section 18-3302, Idaho Code, relating to an applicant or licensee.

(e) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

(f) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(g) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(h) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(i) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(ii) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(iii) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(iv) To others who demonstrate that the public interest in

allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction.

(3) Privacy, personnel records, personal information, health records, professional discipline.

(a) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(b) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(c) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(d) Records of a personal nature as follows:

(i) Records of personal debt filed with a public agency pursuant to law;

(ii) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(iii) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

(iv) Records, with regard to the ownership of, or security interests in, registered public obligations;

(v) Vital statistics records;

(vi) Except as provided in this subsection, all information provided to a law enforcement agency for sex offender registration pursuant to the provisions of section 18-8306, Idaho Code:

1. Such information shall be available upon request to a law enforcement agency; and

2. The information provided pursuant to the provisions of subsections (1) and (3) of section 18-8306, Idaho Code, shall be provided to any person upon written request. Such written request shall include the name and either date of birth or address of the person for whom the information is requested.

(e) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(f) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

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

(h) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency pursuant to a statutory requirement for licensing, certification, permit or bonding.

(i) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

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

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

(l) Records of the department of health and welfare or a public

health district that identifies a person infected with a reportable disease.

(m) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(4) Trade secrets, production records, appraisals, bids, proprietary information.

(a) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(i) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(ii) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(b) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

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

(d) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(e) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(f) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(g) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(h) Financial statements and business information and reports submitted by a legal entity to a port district organized under title 70, Idaho Code, in connection with a business agreement, or with a development proposal or with a financing application for any industrial, manufacturing, or other business activity within a port district.

(i) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided, however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

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

(k) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency.

(l) Records of laboratory test results provided by or retained by the department of agriculture's quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(m) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

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

(o) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer pro-

gram" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

(i) The original data including, but not limited to, numbers, text, voice, graphics and images;

(ii) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(iii) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

(5) Archaeological, endangered species, libraries, legislative, test keys, miscellaneous exemptions.

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

(b) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(c) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(d) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(e) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(f) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative services office by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

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

dential or exempt from disclosure.

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

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

SECTION 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, 1997.

Approved March 24, 1998.

CHAPTER 294
(H.B. No. 512, As Amended)

AN ACT

RELATING TO THE IDAHO NATIONAL GUARD; AMENDING SECTION 46-314, IDAHO CODE, TO PROVIDE THAT THE ADJUTANT GENERAL MAY PAY ONE HUNDRED PERCENT OF STUDENT REGISTRATION FEES OR TUITION FOR ACTIVE IDAHO NATIONAL GUARD MEMBERS WHO ATTEND A PUBLIC INSTITUTION OF HIGHER EDUCATION IN IDAHO, A VOCATIONAL SCHOOL, OR A COMMUNITY COLLEGE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 46-314, Idaho Code, be, and the same is hereby amended to read as follows:

46-314. EDUCATIONAL ENCOURAGEMENT. The adjutant general of the Idaho national guard is authorized to encourage recruitment and retention of nontechnician national guardsmen by providing incentive payments as set forth hereinafter. The adjutant general may authorize the payment of not more than ~~fifty~~ one hundred percent (~~50~~100%) of student registration fees or tuition for each semester for each member of the active Idaho national guard who attends an public institution of higher education in Idaho, a vocational education school, or a ~~junior~~ community college organized under the provisions of chapter 21, title 33, Idaho Code. To be eligible to receive benefits, an individual must

(2) Each free clinic shall maintain a list of health care providers associated with its provision of voluntary health care services. For each such health care provider, the free clinic shall maintain a copy of a current license, certificate or registration and shall further require each health care provider to attest in writing that such provider's license, certificate or registration is not suspended or revoked pursuant to disciplinary proceedings in any jurisdiction.

(3) The free clinic shall maintain such records for a period of at least five (5) years following the provision of health care services and shall furnish such records upon request to the department.

(4) Compliance with subsections (1) and (2) of this section shall be prima facie evidence that the free clinic has exercised due care in its selection of health care providers and shall be immune from suit for negligent acts or omissions as provided in subsection (1) of section 39-7703, Idaho Code.

(5) The department may revoke the registration of any free clinic who fails to comply with the requirements of subsections (1) through (4) of this section. Any such revocation shall be conducted in accordance with the administrative procedure act.

39-7705. COSTS AND FEES. Notwithstanding any other provision of law to the contrary, if a party names as a defendant a health care provider who has immunity pursuant to section 39-7703, Idaho Code, in a suit alleging willful or intentional misconduct or gross negligence arising out of treatment at a free clinic which qualifies for immunity pursuant to section 39-7703, Idaho Code, and the trial judge dismisses the complaint or grants a defendant's motion for judgment on the pleadings, or directs a verdict for a defendant, or grants a defendant's motion for judgment notwithstanding the verdict, or at any point in the proceedings grants a plaintiff's motion to discontinue the action against the defendant, the defendant shall be entitled to full costs and reasonable attorney's fees expended in connection with the defendant's defense of the action. If good reason is shown, the trial judge may suspend the operation of this section.

Approved March 24, 1998.

CHAPTER 296
(H.B. No. 577, As Amended, As Amended)

AN ACT

RELATING TO THE EQUINE ACTIVITIES IMMUNITY ACT; AMENDING SECTION 6-1802, IDAHO CODE, TO PROVIDE THAT THE GENERAL LIMITATION OF LIABILITY OF AN EQUINE ACTIVITY SPONSOR OR AN EQUINE PROFESSIONAL EXTENDS TO THE INJURY OR DEATH OF AN EQUINE ENGAGED IN AN EQUINE ACTIVITY AND TO INCLUDE THE EQUINE WITHIN THE EXCEPTIONS TO THE LIABILITY LIMITATION.

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

SECTION 1. That Section 6-1802, Idaho Code, be, and the same is hereby amended to read as follows:

6-1802. LIMITATION OF LIABILITY ON EQUINE ACTIVITIES. (1) Except as provided in subsections (2) and (3) of this section, an equine activity sponsor or an equine professional shall not be liable for any injury to or the death of a participant <u>or equine</u> engaged in an equine activity and, except as provided in subsections (2) and (3) of this section, no participant nor participant's representative may maintain an action against or recover from an equine activity sponsor or an equine professional for an injury to or the death of a participant <u>or equine</u> engaged in an equine activity.

(2) The provisions of this chapter do not apply to the horse or mule racing industry as regulated in chapter 25, title 54, Idaho Code.

(3) Nothing in subsection (1) of this section shall prevent or limit the liability of an equine activity sponsor or an equine professional:

(a) If the equine activity sponsor or the equine professional:

(i) Provided the equipment or tack and the equipment or tack caused the injury; or

(ii) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity, determine the ability of the equine to behave safely with the participant, and to determine the ability of the participant to safely manage the particular equine;

(iii) Owns, leases, rents or otherwise is in lawful possession and control of the land or facilities upon which the participant <u>or equine</u> sustained injuries because of a dangerous latent condition which was known to or should have been known to the equine activity sponsor or the equine professional and for which warning signs have not been conspicuously posted;

(iv) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant <u>or equine</u> and that act or omission caused the injury;

(v) Intentionally injures the participant <u>or equine;</u>

(b) Under liability provisions as set forth in the products liability laws; or

(c) Under the liability provisions set forth in chapter 9, title 6, Idaho Code.

Approved March 24, 1998.

CHAPTER 297
(H.B. No. 627)

AN ACT

RELATING TO OPTIONAL RETIREMENT PROGRAMS ESTABLISHED BY THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-107A, IDAHO CODE, TO FIX THE EMPLOYER AND EMPLOYEE CONTRIBUTION RATE AND TO MAKE TECHNICAL

CORRECTIONS; AND AMENDING SECTION 33-107B, IDAHO CODE, TO FIX THE EMPLOYER AND EMPLOYEE CONTRIBUTION RATE.

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

SECTION 1. That Section 33-107A, Idaho Code, be, and the same is hereby amended to read as follows:

33-107A. BOARD MAY ESTABLISH AN OPTIONAL RETIREMENT PROGRAM. (1) The state board of education may establish an optional retirement program under which contracts providing retirement and death benefits may be purchased for members of the teaching staff and officers of the university of Idaho, Idaho state university, Boise state university, Lewis Clark state college and the state board of education who are hired on or after July 1, 1993; provided, however, that no such employee shall be eligible to participate in an optional retirement program unless he would otherwise be eligible for membership in the public employee retirement system of Idaho. The benefits to be provided for or on behalf of participants in an optional retirement program shall be provided through annuity contracts or certificates, fixed or variable in nature, or a combination thereof, whose benefits are owned by the participants in the program.

(2) The state board of education is hereby authorized to provide for the administration of the optional retirement program and to perform or authorize the performance of such functions as may be necessary for such purposes. The board shall designate the company or companies from which contracts are to be purchased under the optional retirement program and shall approve the form and contents of such contracts. In making the designation and giving approval, the board shall consider:

(a) The nature and extent of the rights and benefits to be provided by such contracts for participants and their beneficiaries;

(b) The relation of such rights and benefits to the amount of contributions to be made;

(c) The suitability of such rights and benefits to the needs of the participants and the interests of the institutions in the recruitment and retention of staff members; and

(d) The ability of the designated company to provide such suitable rights and benefits under such contracts.

(3) Elections to participate in an optional retirement program shall be as follows:

(a) Eligible employees are:

(i) Those faculty and nonclassified staff initially appointed or hired between July 1, 1990 and June 30, 1993; and

(ii) Those teaching staff and officers initially appointed or hired on or after July 1, 1993.

All eligible employees, except those who are vested members of the public employee retirement system of Idaho, shall participate in the optional retirement program.

(b) Vested members of the public employee retirement system of Idaho may make a one (1) time irrevocable election to remain a member of that retirement system. The election shall be made in

writing, within sixty (60) days of the date of initial hire or appointment or the effective date of this act, whichever occurs later. It shall be filed with the administrative officer of the employing institution.

(c) An election by an eligible employee of the optional retirement program shall be irrevocable and shall be accompanied by an appropriate application, where required, for issuance of a contract or contracts under the program.

(d) The accumulated contributions of employees who make the one (1) time irrevocable election or are required to participate in the optional retirement program may be transferred by the public employee retirement system of Idaho to such qualified plan, maintained under the optional retirement program, as designated in writing by the employee.

(4) (a) Each institution shall contribute on behalf of each participant in its optional retirement program the following:

(i) To the designated company or companies, an amount equal to ~~the--employer's--"normal--cost"-under-the-public-employee retirement-system-as-defined-in-section-59-1322,--Idaho--Code~~ seven and eighty-one hundredths percent (7.81%) of each participant's salary, reduced by any amount necessary, if any, to provide contributions to a total disability program provided either by the state or by a private insurance carrier licensed and authorized to provide such benefits or any combination thereof, but in no event less than five ~~per--cent~~ percent (5%) of each participant's salary; and

(ii) To the public employee retirement system, an amount equal to three and three one-hundredths ~~per--cent~~ percent (3.03%) of salaries of members who are participants in the optional retirement program. This amount shall be paid until July 1, 2015, and is in lieu of amortization payments and withdrawal contributions required pursuant to chapter 13, title 59, Idaho Code.

(b) Each participant shall contribute an amount equal to ~~the-member--contribution--under--the-public-employee-retirement-system-as required-in-section-59-1333,-Idaho-Code~~ six and ninety-seven hundredths percent (6.97%) of the participant's salary. Employee contributions may be made by employer pick-up pursuant to section 59-1332, Idaho Code.

(c) Payment of contributions authorized or required under this subsection shall be made by the financial officer of the employing institution to the designated company or companies for the benefits of each participant.

(5) Any person participating in the optional retirement program shall be ineligible for membership in the public employee retirement system of Idaho so long as he remains continuously employed in any teaching staff position or as an officer with any of the institutions under the jurisdiction of the state board of education.

(6) A retirement, death or other benefit shall not be paid by the state of Idaho or the state board of education for services credited under the optional retirement program. Such benefits are payable to participants or their beneficiaries only by the designated company or companies in accordance with the terms of the contracts.

SECTION 2. That Section 33-107B, Idaho Code, be, and the same is hereby amended to read as follows:

33-107B. BOARD MAY ESTABLISH AN OPTIONAL RETIREMENT PROGRAM FOR COMMUNITY COLLEGES AND POSTSECONDARY VOCATIONAL EDUCATION INSTITUTIONS. (1) The state board of education may establish an optional retirement program under which contracts providing retirement and death benefits may be purchased for members of the teaching staff and officers of community colleges and postsecondary vocational education institutions, including north Idaho college, college of southern Idaho and eastern Idaho technical college, hired on or after July 1, 1997; provided however, that no such employee shall be eligible to participate in an optional retirement program unless he would otherwise be eligible for membership in the public employee retirement system of Idaho. The benefits to be provided for or on behalf of participants in an optional retirement program shall be provided through annuity contracts or certificates, fixed or variable in nature, or a combination thereof, whose benefits are owned by the participants in the program.

(2) The state board of education is hereby authorized to provide for the administration of the optional retirement program and to perform or authorize the performance of such functions as may be necessary for such purposes. The board shall designate the company or companies from which contracts are to be purchased under the optional retirement program and shall approve the form and contents of such contracts. In making the designation and giving approval, the board shall consider:

(a) The nature and extent of the rights and benefits to be provided by such contracts for participants and their beneficiaries;

(b) The relation of such rights and benefits to the amount of contributions to be made;

(c) The suitability of such rights and benefits to the needs of the participants and the interests of the institutions in the recruitment and retention of staff members; and

(d) The ability of the designated company to provide such suitable rights and benefits under such contracts.

(3) Elections to participate in an optional retirement program shall be as follows:

(a) Eligible employees are the teaching staff and officers initially appointed or hired on or after the effective date of this chapter. All eligible employees, except those who are vested members of the public employee retirement system of Idaho, shall participate in the optional retirement program.

(b) Eligible employees who are vested members of the public employee retirement system of Idaho may make a one (1) time irrevocable election to transfer to the optional retirement program. The election shall be made in writing and within sixty (60) days of the date of initial hire or appointment, or one hundred fifty (150) days after the effective date of this chapter, whichever occurs later. The election shall be filed with the administrative officer of the employing institution. The election shall be effective not later than the first day of the second pay period following the date of the election.

(c) Teaching staff and officers employed by the institution the

day before the effective date of this chapter may make a one (1) time irrevocable election to participate in the optional retirement program. The election shall be made in writing and within one hundred fifty (150) days after the effective date of this chapter. The election shall be filed with the administrative officer of the employing institution. The election shall be effective not later than the first day of the second pay period following the date of the election.

(d) The accumulated contributions of employees who make the one (1) time irrevocable election or are required to participate in the optional retirement program may be transferred by the public employee retirement system of Idaho to such qualified plan, maintained under the optional retirement program, as designated in writing by the employee.

(e) An election by an eligible employee of the optional retirement program shall be irrevocable and shall be accompanied by an appropriate application, where required, for issuance of a contract or contracts under the program.

(4) (a) Each institution shall contribute on behalf of each participant in its optional retirement program the following:

(i) To the designated company or companies, an amount equal to ~~the--employer's--"normal--cost"-under-the-public-employee retirement-system-as-defined-in-section-59-1322,--Idaho--Code~~ seven and eighty-one hundredths percent (7.81%) of each participant's salary, reduced by any amount necessary, if any, to provide contributions to a total disability program provided either by the state or by a private insurance carrier licensed and authorized to provide such benefits, or any combination thereof, but in no event less than five percent (5%) of each participant's salary; and

(ii) To the public employee retirement system, an amount equal to three and eighty-three hundredths percent (3.83%) of salaries of members who are participants in the optional retirement program. This amount shall be paid until July 1, 2011 and is in lieu of amortization payments and withdrawal contributions required pursuant to chapter 13, title 59, Idaho Code.

(b) For the purposes of section 59-1322, Idaho Code, the term "projected salaries" shall include the sum of the annual salaries of all participants in the optional retirement program established pursuant to this section.

(c) Each participant shall contribute an amount equal to ~~the-member--contribution--under--the-public-employee-retirement-system-as required-in-section-59-1333,-Idaho-Code~~ six and ninety-seven hundredths percent (6.97%). Employee contributions may be made by employer pick-up pursuant to section 59-1332, Idaho Code.

(5) Any person participating in the optional retirement program shall be ineligible for membership in the public employee retirement system of Idaho so long as he remains continuously employed in any teaching staff position or as an officer with any of the institutions under the jurisdiction of the state board of education.

(6) A retirement, death or other benefit shall not be paid by the state of Idaho or the state board of education for services credited

under the optional retirement program. Such benefits are payable to participants or their beneficiaries only by the designated company or companies in accordance with the terms of the contracts.

Approved March 24, 1998.

CHAPTER 298
(H.B. No. 629)

AN ACT

RELATING TO FISH AND GAME; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 36-406, IDAHO CODE, TO INCREASE A RESIDENT LICENSE FEE; AMENDING SECTION 36-409, IDAHO CODE, TO INCREASE RESIDENT AND NONRESIDENT DEER AND ELK TAG AND COMBINATION FEES; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. LEGISLATIVE INTENT. It is the Legislature's intent that the Fish and Game Commission and the Department of Fish and Game prepare a long-term license fee adjustment proposal to provide fiscal stability to be presented to the Legislature in 1999 as provided in the statement of purpose.

SECTION 2. That Section 36-406, Idaho Code, be, and the same is hereby amended to read as follows:

36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES. (a) Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license of the first class may be had by a person possessing the qualifications therein described on payment of twenty dollars ($20.00) for a combined fishing and hunting license entitling the purchaser to hunt and fish for game animals, game birds, unprotected and predatory animals and fish of the state, fifteen dollars ($15.00) for a fishing license entitling the purchaser to fish in the public waters of the state, six dollars ($6.00) for a hunting license entitling the purchaser to hunt game animals, game birds, unprotected and predatory animals of the state, and twenty-five dollars ($25.00) for a trapping license entitling the purchaser to trap furbearers, unprotected and predatory animals of the state.

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

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

sponding license of the first class provides.

(d) Senior Resident Combination. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of four dollars ($4.00) for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

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

(f) A license of the eighth class may be had by a person possessing the qualifications therein described on payment of ~~sixty-nine~~ eighty-one dollars ($69~~8~~1.00) entitling the purchaser to hunt and fish for game animals, game birds, fish, and unprotected and predatory animals of the state. With payment of the required fee, a person shall receive with this license a deer tag, an elk tag, a bear tag, a turkey tag, a mountain lion tag, an archery hunt permit, a muzzleloader permit, an upland game permit, a migratory waterfowl stamp, a steelhead trout permit and an anadromous salmon permit. The director shall promptly transmit to the state treasurer all moneys received pursuant to this subsection for deposit as follows:

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

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

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

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

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

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

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

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

SECTION 3. That Section 36-409, Idaho Code, be, and the same is hereby amended to read as follows:

36-409. GAME TAGS -- ARCHERY PERMITS -- FEES -- PENALTY. (a) Resident Game Tags. A resident who has obtained a permit to hunt, as provided in section 36-401, Idaho Code, or has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon pay-

ment of the fees provided herein shall be eligible to receive a resident game tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, or turkey in accordance with the laws of this state and rules promulgated by the commission; provided further, that the holder of a senior resident permit may be issued a bear, deer or elk tag without charge; provided further, that resident game tags may be issued only to those persons who meet residency requirements of subsection (r) of section 36-202, Idaho Code.

(b) Nonresident Game Tags. A nonresident who has purchased a hunting license, as provided in section 36-407(a), Idaho Code, or has obtained a license to hunt, as provided in section 36-406(e), Idaho Code, upon payment of the fees provided herein, shall be eligible to receive a nonresident tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear or turkey in accordance with the laws of this state and rules promulgated by the commission.

(c) Schedule of Game Tag Fees.

Game	Resident	Nonresident
Moose	$60.00	$900.00
Bighorn Sheep	60.00	900.00
Mountain Goat	60.00	900.00
Elk	~~15~~21.00	3~~25~~31.00
Deer	9~~1~~5.00	2~~25~~31.00
Antelope	26.50	225.00
Mountain Lion	25.00	225.00
Bear	6.00	225.00
Turkey	6.00	35.00
Deer, Elk and Bear "Pak"	~~29~~41.00	not applicable

(d) Game Tags Required -- To Be Endorsed on License. The appropriate tag must be had for the hunting or taking of each and every one (1) of the aforementioned wildlife. Provided, however, that the requirements for a mountain lion tag or a bear tag, as to different periods of time and areas of the state, shall be determined and specified by the commission. All of said tags are to bear and have serial numbers to be endorsed on the purchaser's license by the vendor at the time of sale.

(e) Game Tag to Be Validated and Attached to Carcass. As soon as any person kills any wildlife for which a tag is required, said tag, belonging to him, must be validated and attached to said wildlife in a manner provided by commission regulation.

(f) Archery Permits. In addition to meeting the license and tag requirements provided in this chapter, any persons participating in any controlled or general game season which has been specifically designated as an archery hunt must have in his possession an archery hunt permit which may be purchased at a fee of seven dollars and fifty cents ($7.50).

(g) Muzzleloader Permit. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as a muzzleloader hunt must have in his possession a muzzleloader permit which may be purchased at a fee of seven dollars and fifty cents ($7.50).

(h) Upland Game Bird Stamp. The commission may, under rules as it

may prescribe, issue an upland game bird stamp that must be purchased by all persons over sixteen (16) years of age prior to hunting upland game birds, provided that a stamp shall not be required to hunt forest grouse (blue, ruffed or spruce), sharp-tailed grouse, sage grouse, or turkey. The fee for such a stamp shall be five dollars ($5.00) and the proceeds from the sale of such stamps shall be utilized for the acquisition of state and federal lands or interests of less than fee simple in private lands and the development, management, improvement, sale or exchange of upland game bird habitat in accordance with Idaho fish and game commission order number 95-07. This subsection shall be null and void and of no force and effect on and after July 1, 2000.

(i) Hound Hunter Permit. Any person using a dog for the purpose of hunting or for taking, as defined in section 36-202, Idaho Code, big game or furbearing animals must have in his possession a valid hound hunter permit which may be purchased for a fee of ten dollars ($10.00).

(j) Nonresident Bird of Prey Capture Permit. The commission may, under rules as it may prescribe, issue a nonresident bird of prey capture permit. This capture permit may be purchased by any licensed, nonresident falconer for capturing birds of prey in Idaho. The fee for the permit shall be one hundred dollars ($100) and the permit shall be issued under the condition that the nonresident's home state allows reciprocal raptor capturing privileges for Idaho falconers. Any funds in excess of those required to issue and administer nonresident capture permits shall be used to issue and administer any resident falconry program established by the commission.

(k) Wildlife Management Area (WMA) Pheasant Permit. The commission may, under rules as it may prescribe, issue a wildlife management area pheasant permit that must be purchased by all persons over sixteen (16) years of age prior to hunting pheasants on state wildlife management areas designated by the commission. The fee for the permit shall be ten dollars ($10.00).

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after May 1, 1998.

Approved March 24, 1998.

CHAPTER 299
(H.B. No. 652)

AN ACT

RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2109, IDAHO CODE, TO PROVIDE THAT LICENSES MAY NOT BE SOLD, ASSIGNED OR TRANSFERRED EXCEPT AS PROVIDED.

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

SECTION 1. That Section 36-2109, Idaho Code, be, and the same is hereby amended to read as follows:

36-2109. FORM AND TERM OF LICENSE -- NOTICE OF DENIAL. (a) Upon concurrence of a majority, the board, in its discretion may issue a license to any applicant who has filed an application in proper form with the board, including but not limited to payment of the license fee and furnishing of bond. Said license shall be in the form prescribed by the board, and shall be valid for the licensing year in which issued from the date issued until the end of the license year in which it is issued; provided, that no outfitter's or guide's license may be sold, assigned or otherwise transferred either by any holder thereof or by the operation of law except as provided in this chapter. The board may prescribe by rule that limitations or qualifications placed upon an outfitter's or guide's license as provided in this chapter shall be indicated on the face of the license or as an attachment to the license which shall be considered a part of the license.

(b) A license granted by the board including any attachment thereto shall specify the activities licensed and the exact territorial limits of the outfitter's area of operation and shall specify the species of game to be hunted. In so approving and/or licensing any outfitter's or guide's activity, the board shall consider the following matters, among others:

1. The length of time in which the applicant has operated in that area;
2. The extent to which the applicant is qualified by reason of experience, equipment or resources to operate in that area;
3. The applicant's previous safety record;
4. The accessibility of the area, the particular terrain, and the weather conditions normal to that area during the outfitter's or guide's season;
5. The total amount of outfitter's area requested by any applicant giving due consideration to the effect which such area license grant would have upon the environment, the amount of game which can be harvested, and the number of persons which can be adequately served in the area.

(c) The board shall refuse to issue any license to any applicant for an outfitter's or guide's license who the board finds is not a competent person of good moral character, less than eighteen (18) years of age and does not possess a working knowledge of the game and fishing laws of the state of Idaho and the regulations of the United States forest service. The board shall also refuse to issue an outfitter's license to any applicant who the board finds does not have sufficient financial responsibility to conduct adequately the business of an outfitter. The board shall refuse to issue any license to a firm, partnership, corporation or other organization or any combination thereof which fails to have at least one (1) designated agent conducting its outfitting business who meets all of the qualifications and requirements of a licensed outfitter. The board may also refuse to grant an outfitter's or guide's license to any applicant for violation of any of the provisions hereinafter specified in this chapter as grounds for revocation or suspension of an outfitter's or guide's license. If the application is denied, the board shall notify the applicant, in writing, of the reasons for such denial within ten (10) days and if the applicant shall correct, to the satisfaction of the board, such reasons within thirty (30) days of receipt of such notice

and if, thereafter, a majority of the board concur, the board may issue a license to the applicant.

(d) No license shall be issued by the board until a majority thereof has reported favorably thereon; except, an application for a license identical to a license held during the previous year may be issued on approval by one (1) board member providing there is no adverse information on file regarding the applicant.

Approved March 24, 1998.

CHAPTER 300
(H.B. No. 659, As Amended in the Senate)

AN ACT

RELATING TO SINGLE COUNTYWIDE HIGHWAY DISTRICTS; AMENDING SECTION 40-1404, IDAHO CODE, TO PROVIDE APPLICATION TO COUNTYWIDE HIGHWAY DISTRICTS IN COUNTIES WITH A POPULATION OF TWO HUNDRED THOUSAND PERSONS OR LESS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 14, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-1404A, IDAHO CODE, TO PROVIDE ELECTION PROCEDURES FOR HIGHWAY DISTRICTS IN COUNTIES WITH A POPULATION IN EXCESS OF TWO HUNDRED THOUSAND PERSONS; AMENDING SECTION 34-625, IDAHO CODE, TO PROVIDE AN AGE REQUIREMENT OF TWENTY-ONE YEARS TO BE ELECTED TO THE OFFICE OF HIGHWAY DISTRICT COMMISSIONERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 6, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-625A, IDAHO CODE, TO PROVIDE FOR ELECTION OF HIGHWAY DISTRICT COMMISSIONERS IN CERTAIN SINGLE COUNTYWIDE HIGHWAY DISTRICTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 40-1404, Idaho Code, be, and the same is hereby amended to read as follows:

40-1404. APPOINTMENT OF FIRST HIGHWAY DISTRICT COMMISSIONERS IN CERTAIN COUNTYWIDE HIGHWAY DISTRICTS -- SUBDISTRICTS -- ELECTIONS, TERMS AND SALARIES OF COMMISSIONERS. For counties with a population of two hundred thousand (200,000) persons or less, i~~ff~~ there is a majority affirmative vote at the election the county commissioners, at their next meeting shall organize the ~~county-wide~~ countywide highway district. The county shall be subdivided by the county commissioners into three (3) subdistricts, designated subdistricts number one, two and three, as nearly equal in population as practicable, and one (1) highway commissioner shall represent each subdistrict and be a resident of the subdistrict. The governor shall appoint the first ~~county-wide~~ countywide highway district commissioners. Where one (1) or more highway districts have been in existence at the time of the creation of the ~~county-wide~~ countywide highway district, the governor shall appoint, whenever practicable, at least one (1) of the former highway district commissioners as they shall qualify by reason of residence in the territorial limits of the subdistricts of the ~~county-wide~~

countywide highway district as a commissioner of the ~~county-wide~~ countywide highway district. County commissioners and city council members shall not be eligible to hold office as a ~~county-wide~~ countywide highway district commissioner. The originally appointed commissioners shall serve until the next general election when two (2) members shall be elected for two (2) years and one (1) member shall be elected for a term of four (4) years, the commissioner from subdistrict number one being elected for a term of four (4) years. The four (4) year term shall be allotted thereafter in rotation to subdistricts number two, three and one. A qualified voter of the ~~county-wide~~ countywide highway district shall be eligible to vote for each of the ~~county-wide~~ countywide highway district commissioners, and the election shall be conducted as provided by Idaho statutes relating to holding elections at the county level.

The highway commissioners shall take office on January 1 of the year immediately following their election, and each may receive a salary not to exceed six hundred dollars ($600) per calendar month with the exception of the president of the highway commissioners who may receive a salary not to exceed seven hundred dollars ($700) per calendar month.

SECTION 2. That Chapter 14, 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 40-1404A, Idaho Code, and to read as follows:

40-1404A. ELECTIONS, TERMS AND SALARIES OF COMMISSIONERS IN CERTAIN COUNTYWIDE HIGHWAY DISTRICTS. In countywide highway districts located in a county with a population of more than two hundred thousand (200,000) persons in which the voters have chosen to establish a countywide highway district at a previous election, the county shall be divided by the county commissioners immediately upon the effective date of this act into five (5) subdistricts which shall be as nearly equal in population as practicable. No precincts shall be divided. A highway district commissioner shall be a resident of the subdistrict which he represents. Voters in each subdistrict shall vote only for one (1) candidate seeking to represent that subdistrict. County commissioners, mayors and city council members shall not be eligible to hold office as a countywide highway district commissioner. At the election held in 1998, commissioners representing subdistricts two and five shall be elected for two (2) year terms and commissioners representing subdistricts three and four shall be elected for four (4) year terms. Thereafter, all commissioners shall be elected for four (4) year terms. Any incumbent in office on the effective date of this act may complete the term to which they were elected and shall represent the subdistrict in which they reside. Any incumbent in office on the effective date of this act whose term expires on January 1, 2000, shall retain that office until January 1, 2000, shall be assigned the subdistrict in which they reside by the county commissioners, which subdistrict shall be numbered one as provided in this section and that commissioner need not stand for election in 1998.

A qualified voter of the countywide highway district shall be eligible to vote for a countywide highway district commissioner residing

in the elector's subdistrict, and the election shall be conducted as provided by Idaho statutes relating to holding general elections at the county level.

The highway commissioners shall take office on January 1 of the year immediately following their election, and each may receive a salary not to exceed six hundred dollars ($600) per calendar month with the exception of the president of the highway commissioners who may receive a salary not to exceed seven hundred dollars ($700) per calendar month.

SECTION 3. That Section 34-625, Idaho Code, be, and the same is hereby amended to read as follows:

34-625. ELECTION OF HIGHWAY DISTRICT COMMISSIONERS IN SINGLE ~~COUNTY-WIDE~~ COUNTYWIDE DISTRICTS -- QUALIFICATIONS. (1) In each general election, highway district commissioners in single ~~county-wide~~ countywide districts shall be elected as provided for in section 40-1404, Idaho Code.

(2) No person shall be elected to the office of highway district commissioner unless he shall have attained the age of ~~eighteen (18)~~ twenty-one (21) years at the time of his election, is a citizen of the United States, and shall be a resident of the highway district commissioner's subdistrict for which he seeks office.

(3) Each candidate shall file a declaration of candidacy with the county clerk not more than ninety (90) days nor less than sixty (60) days prior to the general election. Each declaration of candidacy shall also bear the following words: "I am a resident within the boundaries of Highway District Commissioner's Subdistrict Number ....."

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of ten dollars ($10.00) which shall be deposited in the county current expense fund.

SECTION 4. That Chapter 6, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-625A, Idaho Code, and to read as follows:

34-625A. ELECTION OF HIGHWAY DISTRICT COMMISSIONERS IN CERTAIN SINGLE COUNTYWIDE DISTRICTS -- QUALIFICATIONS. (1) In each general election, highway district commissioners in single countywide districts shall be elected as provided for in section 40-1404A, Idaho Code.

(2) No person shall be elected to the office of highway district commissioner unless he shall have attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States, and shall be a resident of the highway district commissioner's subdistrict for which he seeks office.

(3) Each candidate shall file a declaration of candidacy with the county clerk not more than ninety (90) days nor less than sixty (60) days prior to the general election. Each declaration of candidacy

shall also bear the following words: "I am a resident within the boundaries of Highway District Commissioner's Subdistrict Number ....."

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of ten dollars ($10.00) which shall be deposited in the county current expense fund.

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 24, 1998.

CHAPTER 301
(H.B. No. 660, As Amended)

AN ACT

RELATING TO DISASTER PREPAREDNESS IN IDAHO; AMENDING CHAPTER 10, TITLE 46, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 46-1020, 46-1021, 46-1022, 46-1023 AND 46-1024, IDAHO CODE, TO PROVIDE PURPOSE AND FINDINGS, TO DEFINE TERMS, TO PROVIDE THAT LOCAL GOVERNMENTS MAY ADOPT FLOODPLAIN ZONING ORDINANCES, TO PROVIDE ENFORCEMENT AND SANCTIONS AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Chapter 10, Title 46, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 46-1020, 46-1021, 46-1022, 46-1023 and 46-1024, Idaho Code, and to read as follows:

46-1020. PURPOSE AND FINDINGS. (1) The legislature of the state of Idaho finds:

(a) That recurring floods in Idaho threaten human life, health and property and that the public interest requires that the floodplains of Idaho be managed and regulated in order to minimize flood hazards to life, health and property.

(b) That it is the policy of this state to reduce flood damage and the number of people and structures at risk in flood hazard areas through proper floodplain management, including such measures as floodplain zoning ordinances which require structures to be built at a flood protection elevation and/or with floodproofing.

(c) That local units of government have the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish this proper floodplain management. Furthermore, they are best able to adopt and implement comprehensive floodplain management programs that include nonregulatory techniques to accomplish the purposes of this act in cooperation with federal, state and local agencies.

(2) The purpose of this act is:

(a) To protect human life, health and property;
(b) To preserve floodplains for the purpose of carrying and storing flood waters;
(c) To reduce the public cost of providing emergency services, flood control structures and rebuilding public works damaged by floods;
(d) To protect the tax base and jobs in Idaho;
(e) To reduce the threat of increased damage to existing development;
(f) To encourage the orderly development and wise use of floodplains;
(g) To minimize interruptions to business;
(h) To prevent increased flooding and erosion caused by improper development.

46-1021. DEFINITIONS. As used in this act:

(1) "Development" means any manmade change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures, or the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of materials; specifically including the construction of dikes, berms and levees.

(2) "Flood" means a general or temporary condition of partial or complete inundation of normally dry land areas caused by the overflow or rise of river, ocean, streams or lakes, or the unusual and rapid accumulation or runoff of surface waters from any source.

(3) "Flood fringe" is that portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood.

(4) "Floodplain" is the land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence of the regulatory flood. The riverine floodplain includes the floodway and the flood fringe.

(5) "Floodplain management" is the analysis and integration of the entire range of measures that can be used to prevent, reduce or mitigate flood damage in a given location, and that can protect and preserve the natural, environmental, historical, and cultural values of the floodplain.

(6) "Floodproofing" means the modifications of structures, their sites, building contents and water and sanitary facilities, to keep water out or reduce the effects of water entry.

(7) "Flood protection elevation" means an elevation that shall correspond to the elevation of the one percent (1%) chance flood (one hundred (100) year flood) plus any increased flood elevation due to floodway encroachment, plus any required freeboard.

(8) "Floodway" is the channel of the river or stream and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood.

(9) "Freeboard" represents a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard shall compensate for the many unknown factors that contrib-

ute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and the sedimentation of a river or stream bed.

(10) "Local government," in the context of this chapter, means any county or city having planning and zoning authority to regulate land use within its jurisdiction.

(11) "Mitigation" means any action taken which will reduce the impact, damage or cost of the next flood that occurs.

(12) "Person" means any individual, group of individuals, corporation, partnership, association, political subdivision, public or private agency or entity.

(13) "Regulatory flood" is a flood determined to be representative of large floods known to have occurred in Idaho and which may be expected to occur on a particular stream because of like physical characteristics. The regulatory flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the watershed. In inland areas, the flood frequency of the regulatory flood is once in every one hundred (100) years; this means that in any given year there is a one percent (1%) chance that a regulatory flood may occur or be exceeded.

46-1022. LOCAL GOVERNMENTS MAY ADOPT FLOODPLAIN ZONING ORDINANCES. Subject to the availability of adequate mapping and data to properly identify the floodplains, if any, within their jurisdiction, each local government is encouraged to adopt a floodplain map and floodplain management ordinance which identifies these floodplains and which requires, at a minimum, that any development in a floodplain must be constructed at a flood protection elevation and/or have adequate floodproofing. The local government may regulate all mapped and unmapped floodplains within their jurisdiction. Nothing in this act shall prohibit a local government from adopting more restrictive standards than those contained in this chapter.

46-1023. ENFORCEMENT AND SANCTIONS. (1) Development constructed or maintained in violation of any local floodplain management ordinance that conforms to the provisions of this chapter is hereby declared to be a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action of the state, any local unit of government of the state or any citizen thereof.

(2) If, after the effective date of this chapter, a local government allows any development in a floodplain below the flood protection elevation without adequate floodproofing, that development shall not, in the event of a disaster emergency involving flooding in that floodplain, be eligible to receive any matching funds from the state for any federal disaster assistance program which may be available as a result of said flooding in that floodplain. The owner of the development will be required to rely on flood insurance to insure their property against the risk of loss incurred by their development in the

floodplain in contravention of the intent of this chapter.

46-1024. SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of the chapter are severable.

Approved March 24, 1998.

CHAPTER 302
(H.B. No. 670)

AN ACT

RELATING TO TRUSTS; AMENDING CHAPTER 1, TITLE 68, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 68-114, IDAHO CODE, TO PROVIDE FOR A TRUSTEE'S PRESENTATION OF A CERTIFICATION OF TRUST IN LIEU OF THE TRUST INSTRUMENT TO ESTABLISH THE EXISTENCE OR TERMS OF THE TRUST AND TO PROVIDE FOR THE EFFECT AND FORM OF THE CERTIFICATION; AMENDING CHAPTER 1, TITLE 68, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 68-115, IDAHO CODE, TO PROVIDE THE CONTENTS OF A CERTIFICATION OF TRUST; AMENDING CHAPTER 1, TITLE 68, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 68-116, IDAHO CODE, TO PROVIDE THE RIGHTS OF A PERSON TO WHOM THE CERTIFICATION IS PRESENTED TO REQUIRE EXCERPTS FROM THE TRUST INSTRUMENT; AMENDING CHAPTER 1, TITLE 68, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 68-117, IDAHO CODE, TO PROVIDE FOR THE VALIDITY AND ENFORCEABILITY OF TRANSACTIONS ENTERED INTO IN RELIANCE ON A CERTIFICATION; AMENDING CHAPTER 1, TITLE 68, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 68-118, IDAHO CODE, TO PROVIDE THE EFFECT OF A FAILURE TO DEMAND OR A REFUSAL TO ACCEPT AND RELY UPON A CERTIFICATION OF TRUST; AND AMENDING CHAPTER 1, TITLE 68, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 68-119, IDAHO CODE, TO PROVIDE FOR THE APPLICABILITY OF CERTIFICATIONS OF TRUST TO TRUSTS CREATED UNDER THE LAWS OF ALL JURISDICTIONS.

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

SECTION 1. That Chapter 1, Title 68, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 68-114, Idaho Code, and to read as follows:

68-114. PRESENTATION OF A CERTIFICATION OF TRUST IN LIEU OF THE TRUST INSTRUMENT -- EFFECT -- FORM. (1) A trustee may present a certification of trust to any person in lieu of a copy of any trust instrument to establish the existence or terms of the trust. The trustee may present the certification voluntarily or at the request of the person with whom he is dealing. Notwithstanding any provision of this chapter to the contrary, no person is required to accept and rely solely on a

certification of trust in lieu of a copy of, or excerpts from, the trust instrument itself.

(2) Such a certification must be in the form of an affidavit signed and acknowledged by all of the currently acting trustees of the trust.

SECTION 2. That Chapter 1, Title 68, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 68-115, Idaho Code, and to read as follows:

68-115. CONTENTS OF CERTIFICATION OF TRUST. (1) A certification of trust may confirm the following facts or contain the following information:

(a) The existence of the trust and date of execution of any trust instrument;

(b) The identity of the settlor and each currently acting trustee;

(c) The powers of the trustee and any restrictions imposed upon him in dealing with assets of the trust;

(d) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke it;

(e) If there is more than one (1) trustee, whether all of the currently acting trustees must, or less than all may, act to exercise identified powers of the trustee;

(f) The identifying number of the trust and whether it is a social security number or an employer identification number;

(g) The state or other jurisdiction under the laws of which the trust was established; and

(h) The form in which title to assets of the trust is to be taken.

(2) The certification must contain a statement that the trust has not been revoked or amended to make any representations contained in the certification incorrect, and that the signatures are those of all the currently acting trustees.

SECTION 3. That Chapter 1, Title 68, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 68-116, Idaho Code, and to read as follows:

68-116. DISPOSITIVE PROVISIONS NOT REQUIRED -- PERSON PRESENTED WITH CERTIFICATION MAY REQUEST EXCERPTS FROM TRUST INSTRUMENT DESIGNATING TRUSTEE. A certification of trust need not contain the dispositive provisions of the trust, but the person to whom the certification is presented may require copies of excerpts from any trust instrument which designate the trustee or confer upon him the power to act in the pending transaction.

SECTION 4. That Chapter 1, Title 68, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 68-117, Idaho Code, and to read as follows:

68-117. RELIANCE ON FACTS CONTAINED IN CERTIFICATION -- ENFORCEABILITY. (1) A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect is not liable to any person for so acting. A person who does not know that the facts contained in the certification are incorrect may assume without inquiry the existence of the facts contained in the certification. Knowledge may not be inferred solely from the fact that a copy of all or part of a trust instrument is held by the person relying upon the certification.

(2) A transaction, and any lien created thereby, entered into by a trustee and a person acting in reliance upon a certification of trust is fully enforceable against the assets of the trust unless the person knows that the trustee is acting outside the scope of the trust.

SECTION 5. That Chapter 1, Title 68, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 68-118, Idaho Code, and to read as follows:

68-118. FAILURE TO DEMAND CERTIFICATION OR REFUSAL TO ACCEPT AND RELY ON CERTIFICATION NOT IMPROPER ACT -- LIABILITY. A person's failure to demand a certification of trust, or his refusal to accept and rely solely on a certification of trust, may not be considered to be an improper act by him and no inference as to whether he has acted in good faith may be drawn from the failure to demand, or the refusal to accept and rely upon, a certification of trust. This section creates no implication that a person is liable for acting in reliance upon a certification of trust under circumstances where the requirements of sections 68-114 through 68-119, Idaho Code, are not satisfied.

SECTION 6. That Chapter 1, Title 68, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 68-119, Idaho Code, and to read as follows:

68-119. APPLICABILITY. The provisions of sections 68-114 through 68-119, Idaho Code, shall apply to all trusts, whether established pursuant to Idaho law or established pursuant to the law of another state or jurisdiction.

Approved March 24, 1998.

CHAPTER 303
(H.B. No. 671)

AN ACT

RELATING TO INSURANCE; AMENDING CHAPTER 38, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3821, IDAHO CODE, TO PROVIDE THAT A DOMESTIC MUTUAL INSURER MAY REORGANIZE BY FORMING A MUTUAL INSURANCE HOLDING COMPANY BASED UPON A MUTUAL PLAN AND BY MERGING

ITS POLICYHOLDERS' MEMBERSHIP INTERESTS INTO THE MUTUAL INSURANCE HOLDING COMPANY AND CONTINUING THE CORPORATE EXISTENCE OF THE REORGANIZING INSURER AS A STOCK INSURER; AMENDING SECTION 41-2857, IDAHO CODE, TO PROVIDE APPLICATION TO A CONVERSION OF A MUTUAL INSURANCE COMPANY TO A MUTUAL INSURANCE HOLDING COMPANY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 41-3805, IDAHO CODE, TO PROVIDE THE APPLICATION TO A CONVERSION OF A MUTUAL INSURANCE COMPANY TO A MUTUAL INSURANCE HOLDING COMPANY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Chapter 38, 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 41-3821, Idaho Code, and to read as follows:

41-3821. MUTUAL INSURANCE HOLDING COMPANIES.

(1) (a) A domestic mutual insurer, upon approval of the director, may reorganize by forming an insurance holding company system, "the mutual insurance holding company," based upon a mutual plan and continuing the corporate existence of the reorganizing insurer as a stock insurer. The director, after a public hearing as provided in section 41-3805, Idaho Code, if satisfied that the interests of the policyholders are properly protected and that the plan of reorganization is fair and equitable to the policyholders, may approve the proposed plan of reorganization and may require as a condition of approval such modifications of the proposed plan of reorganization as the director finds necessary for the protection of the policyholders' interests. The director may retain consultants as provided in section 41-3805(4), Idaho Code. A reorganization pursuant to this subsection is subject to sections 41-3802 and 41-3803, Idaho Code. The director shall retain jurisdiction over a mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

(b) All of the initial shares of the capital stock of the reorganized insurer shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurer shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurer shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurer.

(2) (a) A domestic mutual insurer, upon the approval of the director, may reorganize by merging its policyholders' membership interests into a mutual insurance holding company formed pursuant to subsection (1) of this section and continuing the corporate existence of the reorganizing insurer as a stock insurer subsidiary of the mutual insurance holding company. The director, after a public hearing as provided in section 41-3805, Idaho Code, if satisfied that the interests of the policyholders are properly

protected and that the merger is fair and equitable to the policyholders, may approve the proposed merger and may require as a condition of approval such modifications of the proposed merger as the director finds necessary for the protection of the policyholders' interests. The director may retain consultants as provided in section 41-3805(4), Idaho Code. A merger pursuant to this subsection is subject to sections 41-3802 and 41-3803, Idaho Code. The director shall retain jurisdiction over the mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

(b) All of the initial shares of the capital stock of the reorganized insurer shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurer shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurer. A merger of policyholders' membership interests in a mutual insurer into a mutual insurance holding company shall be deemed to be a merger of insurance companies pursuant to section 41-2857, Idaho Code, and section 41-2857, Idaho Code, is also applicable.

(c) A foreign mutual insurer, which if a domestic corporation would be organized under chapter 3, title 41, Idaho Code, may reorganize upon the approval of the director and in compliance with the requirements of any law or rule which is applicable to the foreign mutual insurer by merging its policyholders' membership interests into a mutual insurance holding company formed pursuant to subsection (1) of this section and continuing the corporate existence of the reorganizing foreign mutual insurer as a foreign stock insurer subsidiary of the mutual insurance holding company. The director, after a public hearing as provided in section 41-3805, Idaho Code, may approve the proposed merger. The director may retain consultants as provided in section 41-3805(4), Idaho Code. A merger pursuant to this paragraph is subject to sections 41-3802 and 41-3803, Idaho Code. The reorganizing foreign mutual insurer may remain a foreign company or foreign corporation after the merger, and may be admitted to do business in this state. A foreign mutual insurer which is a party to the merger may at the same time redomesticate in this state by complying with the applicable requirements of this state and its state of domicile. The provisions of subsection (2)(b) shall apply to a merger authorized under this paragraph.

(3) A mutual insurance holding company resulting from the reorganization of a domestic mutual insurer organized under chapter 1, title 30, Idaho Code, shall be incorporated pursuant to chapter 1, title 30, Idaho Code. This requirement shall supersede any conflicting provisions of chapter 1, title 30, Idaho Code. The articles of incorporation and any amendments to such articles of the mutual insurance holding company shall be subject to approval of the director in the same manner as those of an insurance company.

(4) A mutual insurance holding company is deemed to be an insurer subject to chapter 33, title 41, Idaho Code, and shall automatically be a party to any proceeding under chapter 33, title 41, Idaho Code, involving an insurer which as a result of a reorganization pursuant to subsection (1) or (2) of this section is a subsidiary of the mutual insurance holding company. In any proceeding under chapter 33, title 41, Idaho Code, involving the reorganized insurer, the assets of the mutual insurance holding company are deemed to be assets of the estate of the reorganized insurer for purposes of satisfying the claims of the reorganized insurer's policyholders. A mutual insurance holding company shall not dissolve or liquidate without the approval of the director or as ordered by the district court pursuant to chapter 33, title 41, Idaho Code.

(5) (a) Section 41-2855, Idaho Code, is not applicable to a reorganization or merger pursuant to this section.

(b) Section 41-2855, Idaho Code, is applicable to demutualization of a mutual insurance holding company which resulted from the reorganization of a domestic mutual insurer organized under chapter 3, title 41, Idaho Code, as if it were a mutual life insurer.

(6) A membership interest in a domestic mutual insurance holding company shall not constitute a security as defined in section 30-1402(12), Idaho Code.

(7) The majority of the voting shares of the capital stock of the reorganized insurer, which is required by this section to be at all times owned by a mutual insurance holding company, shall not be conveyed, transferred, assigned, pledged, subject to a security interest or lien, encumbered, or otherwise hypothecated or alienated by the mutual insurance holding company or intermediate holding company. Any conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, or hypothecation or alienation of, in or on the majority of the voting shares of the reorganized insurer which is required by this section to be at all times owned by a mutual insurance holding company, is in violation of this section and shall be void in inverse chronological order of the date of such conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, or hypothecation or alienation, as to the shares necessary to constitute a majority of such voting shares. The majority of the voting shares of the capital stock of the reorganized insurer which is required by this section to be at all times owned by a mutual insurance holding company shall not be subject to execution and levy as provided in title 11, Idaho Code. The shares of the capital stock of the surviving or new company resulting from a merger or consolidation of two (2) or more reorganized insurers or two (2) or more intermediate holding companies which were subsidiaries of the same mutual insurance holding company are subject to the same requirements, restrictions, and limitations as provided in this section to which the shares of the merging or consolidating reorganized insurers or intermediate holding companies were subject by this section prior to the merger or consolidation.

As used in this section, "majority of the voting shares of the capital stock of the reorganized insurer" means shares of the capital stock of the reorganized insurer which carry the right to cast a majority of the votes entitled to be cast by all of the outstanding shares of the capital stock of the reorganized insurer for the elec-

tion of directors and on all other matters submitted to a vote of the shareholders of the reorganized insurer. The ownership of a majority of the voting shares of the capital stock of the reorganized insurer which are required by this section to be at all times owned by a parent mutual insurance holding company includes indirect ownership through one (1) or more intermediate holding companies in a corporate structure approved by the director. However, indirect ownership through one (1) or more intermediate holding companies shall not result in the mutual insurance holding company owning less than the equivalent of a majority of the voting shares of the capital stock of the reorganized insurer. The director shall have jurisdiction over an intermediate holding company as if it were a mutual insurance holding company.

As used in this section, "intermediate holding company" means a holding company which is a subsidiary of a mutual insurance holding company, and which either directly or through a subsidiary intermediate holding company has one (1) or more subsidiary reorganized insurers of which a majority of the voting shares of the capital stock would otherwise have been required by this section to be at all times owned by the mutual insurance holding company.

SECTION 2. That Section 41-2857, Idaho Code, be, and the same is hereby amended to read as follows:

41-2857. MERGERS AND CONSOLIDATIONS OF MUTUAL INSURERS. (1) ~~A~~ Except as set forth in section 41-3821, Idaho Code, a domestic mutual insurer shall not merge or consolidate with a stock insurer.

(2) A domestic mutual insurer may merge or consolidate with another mutual insurer under the applicable procedures prescribed by the statutes of this state applying to corporations formed for profit, except as hereinbelow provided.

(3) The plan and agreement for merger or consolidation shall be submitted to and approved by at least two-thirds (2/3) of the members of each mutual insurer voting thereon at meetings called for the purpose pursuant to such reasonable notice and procedure as has been approved by the director. If a life insurer, right to vote may be limited to members whose policies are other than term and group policies, and have been in effect for more than one (1) year.

(4) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the director and approved by him in writing after a hearing thereon. The director shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(a) Inequitable to the ~~policy-holders~~ policyholders of any domestic insurer involved; or

(b) Would substantially reduce the security of and service to be rendered to ~~policy--holders~~ policyholders of the domestic insurer in this state and elsewhere; or

(c) Is subject to other material and reasonable objections.

(5) If the director does not approve such plan or agreement he shall so notify the insurers in writing specifying his reasons therefor.

(6) No director, officer, agent or employee of any insurer party

to such merger or consolidation, nor any other person, shall receive any fee, commission or other valuable consideration whatsoever for in any manner aiding, promoting, or assisting therein except as set forth in the plan and agreement approved by the director.

SECTION 3. That Section 41-3805, Idaho Code, be, and the same is hereby amended to read as follows:

41-3805. APPROVAL, DISAPPROVAL OF PROPOSED ACQUISITION. (1) The director shall approve any purchase, exchange, merger, or other acquisition of control referred to in section 41-3802, Idaho Code, <u>or referred to in section 41-3821, Idaho Code,</u> unless, after a public hearing, the director finds that:

(a) After the change of control the domestic insurer could not satisfy the requirements for the issuance of a certificate of authority according to requirements in force at the time of the issuance, or last renewal or continuation of its certificate of authority to do the insurance business which it intends to transact in this state;

(b) The effect of the purchases, exchanges, merger (of a controlling person of the insurer), or other acquisitions of control may be substantially to lessen competition in insurance in this state or tend to create a monopoly therein. In applying the competitive standard in this paragraph:

(i) The informational requirements of section 41-3805B(3)(a), Idaho Code, and the standards of section 41-3805B(4)(b), Idaho Code, shall apply;

(ii) The merger or other acquisition shall not be disapproved if the director finds that any of the situations meeting the criteria provided in section 41-3805B(4) (c), Idaho Code, exist; and

(iii) The director may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time.

(c) The financial condition of an acquiring person is such as would jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or, in the case of an acquisition of control, the interest of any remaining stockholders who are unaffilliated with the acquiring person;

(d) The plans or proposals which the acquiring person has to liquidate the insurer, to sell its assets, or to merge it with any person, or to make any other major change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(e) The competence, experience and integrity of those persons who would control the operation of the insurer indicate that it would not be in the interest of policyholders, stockholders, or the public to permit the merger or other acquisition of control; or

(f) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

(2) The public hearing referred to in subsection (1) of this section shall be held within thirty (30) days after the statement required by section 41-3802, Idaho Code, is filed, and at least twenty

(20) days' notice thereof shall be given by the director to the person filing the statement. Not less than seven (7) days' notice of such public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the director. The director shall make a determination within thirty (30) days after the conclusion of such hearing. At such hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected thereby shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in connection therewith shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the district courts in this state. All discovery proceedings shall be concluded not later than three (3) days prior to the commencement of the public hearing.

(3) Merger, consolidation or bulk reinsurance as to a domestic insurer shall be effectuated only pursuant to the applicable provisions of chapter 28, title 41 (organization and corporate procedures of stock and mutual insurers), Idaho Code, and chapter 30, title 41 (mutual benefit associations), Idaho Code.

(4) The director may retain any attorney, actuary, accountant, or other individual, organization, corporation, association, or business entity not otherwise a member of the director's staff as may be reasonably necessary to assist the department in the processing of any merger or acquisition of control proposed under this section. All reasonable expenses incurred in connection herewith shall be borne by the party seeking the acquisition. The director may require the acquiring party to post a bond in an amount not to exceed twenty-five thousand dollars ($25,000) as security for payment of such expenses.

(5) The provisions of this section shall not apply to any offer, request, invitation, agreement or acquisition which the director by order shall exempt therefrom as not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or as otherwise not comprehended within the purposes of this section.

(6) The following shall be violations of this section:

(a) The failure to file any statement, amendment, or other material required to be filed pursuant to the provisions of section 41-3802(1) or (2), Idaho Code; or

(b) The effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic insurer unless the director has given his approval thereto.

(7) The courts of Idaho are hereby vested with jurisdiction over every person not resident, domiciled, or authorized to do business in Idaho who files a statement with the director under the provisions of section 41-3802, Idaho Code, and overall actions involving such person arising out of violations of the provisions of this section, and each such person shall be deemed to have performed acts equivalent to and constituting an appointment by such person of the director to be his true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding arising out of violations of this sec-

tion. Copies of all such lawful process shall be served on the director and transmitted by registered or certified mail by the director to such person at his last known address.

Approved March 24, 1998.

CHAPTER 304
(H.B. No. 672)

AN ACT

RELATING TO CONVERSION OF MUTUAL INSURER TO STOCK INSURER; AMENDING SECTION 41-2855, IDAHO CODE, TO PROHIBIT ACQUISITION OF VOTING SECURITY UNDER CERTAIN CONDITIONS AND TO AUTHORIZE TRANSFERS OF CAPITAL STOCK.

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

SECTION 1. That Section 41-2855, Idaho Code, be, and the same is hereby amended to read as follows:

41-2855. CONVERSION OF MUTUAL INSURER TO STOCK INSURER. (1) A mutual insurer may become a stock insurer under such plan and procedure as may be approved by the director after a hearing thereon.

(2) The director shall not approve any conversion plan or procedure unless:

(a) It is equitable to the insurer's members;

(b) It is subject to approval by vote of not less than a majority of the insurer's current members voting thereon in person, by proxy, or by mail at a meeting of members called for the purpose pursuant to such reasonable notice and procedure as may be approved by the director. If a life insurer, the right to vote may be limited to members who hold policies other than term or group policies and whose policies have been in force for not less than one (1) year;

(c) The equity of each policyholder in the insurer is determinable under a fair formula approved by the director, which equity shall be based upon not less than the insurer's entire surplus, after deducting contributed or borrowed surplus funds, plus a reasonable present equity in its reserves and in all nonadmitted assets;

(d) The policyholders entitled to participate in the purchase of stock or distribution of assets shall include all current policyholders and all existing persons who had been policyholders of the insurer within three (3) years prior to the date such plan was submitted to the director;

(e) The plan gives to each policyholder of the insurer, as specified in paragraph (d) of this subsection, a preemptive right to acquire his proportionate part of all of the proposed capital stock of the insurer within a designated reasonable period, and to apply upon the purchase thereof the amount of his equity in the insurer as determined under paragraph (c) of this subsection;

(f) Shares are so offered to policyholders at a price not greater than to be thereafter offered to others but at not more than double the par value of such shares;

(g) The plan provides for payment of cash in the amount of not less than fifty percent (50%) of the amount of the policyholder's equity not so used for the purchase of stock to each policyholder not electing to exercise his preemptive right to apply his equity in the insurer toward the purchase of capital stock as provided in paragraph (e) of this subsection. The cash payment together with stock so purchased, if any, shall constitute full payment and discharge of the policyholder's equity as an owner of such mutual insurer;

(h) The plan, when completed, would provide for the converted insurer paid-up capital stock and additional surplus in amounts not less than the minimum paid-up capital and surplus required of a domestic stock insurer transacting like kinds of insurance, as provided in section 41-313, Idaho Code; and

(i) It contains additional provisions or standards as the director may reasonably require.

(3) No director, officer, agent or employee of the insurer, nor any other person, shall receive any fee, commission or other valuable consideration whatsoever for aiding, promoting, or assisting therein except as set forth in the plan as approved by the director.

(4) Except as otherwise specifically provided in subsection (5) of this section, prior to and for a period of five (5) years following the director's approval of a new stock insurer under subsection (2) of this section, no person other than the new stock insurer shall, without the prior approval of the director, directly or indirectly offer to acquire or acquire in any manner the beneficial ownership of five percent (5%) or more of any class of a voting security of the new stock insurer or of any institution which owns a majority or all of the voting securities of the stock insurer.

(5) Nothing in this section shall prohibit the inclusion in the plan of conversion of provisions under which individuals comprising the new stock insurer's board of directors, officers, employees, agents, and persons acting as trustees of employee stock ownership plans or other employee benefit plans may be entitled to purchase for cash capital stock of the new stock insurer at the same price initially issued by the new stock insurer under the plan of conversion. Nothing in this section shall prohibit a management-incentive compensation program which is contained in the plan of conversion and approved by the director to be adopted upon conversion to the new stock insurer or prohibit such a program to be later adopted by the new stock insurer.

Approved March 24, 1998.

CHAPTER 305
(H.B. No. 649)

AN ACT

RELATING TO THE OPEN MEETING LAW; AMENDING SECTION 67-2342, IDAHO CODE, TO PROVIDE THAT MEETINGS OF THE IDAHO LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION, THE IDAHO INSURANCE GUARANTY ASSOCIATION AND THE SURPLUS LINE ASSOCIATION ARE NOT REQUIRED TO TAKE PLACE IN A MEETING OPEN TO THE PUBLIC.

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

SECTION 1. That Section 67-2342, Idaho Code, be, and the same is hereby amended to read as follows:

67-2342. GOVERNING BODIES -- REQUIREMENT FOR OPEN PUBLIC MEETINGS. (1) Except as provided below, all meetings of a governing body of a public agency shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by this act. No decision at a meeting of a governing body of a public agency shall be made by secret ballot.

(2) Deliberations of the board of tax appeals created in chapter 38, title 63, Idaho Code, the public utilities commission and the industrial commission in a fully submitted adjudicatory proceeding in which hearings, if any are required, have been completed, and in which the legal rights, duties or privileges of a party are to be determined are not required by this act to take place in a meeting open to the public. Such deliberations may, however, be made and/or conducted in a public meeting at the discretion of the agency.

(3) Meetings of the Idaho life and health insurance guaranty association established under chapter 43, title 41, Idaho Code, the Idaho insurance guaranty association established under chapter 36, title 41, Idaho Code, and the surplus line association approved by the director of the Idaho department of insurance as authorized under chapter 12, title 41, Idaho Code, are not required by this act to take place in a meeting open to the public.

(4) A governing body shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced.

Approved March 24, 1998.

CHAPTER 306
(H.B. No. 690, As Amended)

AN ACT

RELATING TO THE CAPITOL BUILDING AND ITS GROUNDS; REPEALING SECTION 67-5707, IDAHO CODE; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 16, TITLE 67, IDAHO CODE, TO PROVIDE A STATEMENT OF FINDINGS AND PURPOSE, TO PROVIDE FOR ALLOCATION OF

CONTROL AND SPACE, TO PROVIDE CONTROL OF THE EXTERIOR, GROUNDS AND SYSTEMS, TO PROVIDE AUTHORITY TO ADOPT RULES FOR MANAGEMENT, TO PROVIDE FOR LAW ENFORCEMENT AND SECURITY, TO CREATE THE IDAHO STATE CAPITOL COMMISSION AND PROVIDE FOR APPOINTMENT OF MEMBERS, TO PROVIDE ORGANIZATION OF THE COMMISSION, TO PROVIDE POWERS AND DUTIES OF THE COMMISSION, TO PROVIDE FOR APPOINTMENT OF THE ARCHITECT OF THE CAPITOL BUILDING, TO CREATE THE CAPITOL PERMANENT ENDOWMENT FUND AND PROVIDE FOR ADMINISTRATION OF THE FUND, AND TO CREATE THE CAPITOL ENDOWMENT INCOME FUND AND TO PROVIDE FOR ADMINISTRATION OF THE FUND, AND TO ESTABLISH THE CAPITOL TOURS PROGRAM; AND APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE IDAHO STATE HISTORICAL SOCIETY FOR THE CAPITOL TOURS PROGRAM.

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

SECTION 1. That Section 67-5707, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 16, Title 67, Idaho Code, and to read as follows:

CHAPTER 16
CAPITOL BUILDING AND GROUNDS

67-1601. STATEMENT OF FINDINGS AND PURPOSE. (1) The legislature and governor of the state of Idaho find that:

(a) The Idaho state capitol building, hereafter referred to as the capitol building, located at the seat of government, in Boise City, Ada County, is a public monument representing the spirit of Idaho's citizens, a symbol of Idaho's sovereignty and one of Idaho's most renowned landmarks.

(b) The capitol building is also one of the most vital and preeminent public buildings in Idaho, wherein the legislative department and a majority of the elected executive department officers maintain their offices and perform their constitutionally prescribed duties.

(c) The maintenance and preservation of the capitol building and its grounds, including its historical character and architectural uniqueness, is of vital public interest and concern.

(d) The existing statutes do not fully and completely address the use, control, security, operation, maintenance, historical character and architectural uniqueness of the capitol building and its grounds.

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

(a) To establish a statute to comprehensively govern all aspects of the use, control, security, operation, and maintenance of the capitol building and its grounds.

(b) To ensure that the historical character and architectural integrity of the capitol building and its grounds be preserved and promoted.

(c) To promote cooperation between the public and private sectors to fund necessary enhancements to and the preservation of the cap-

itol building and its grounds in all respects and particularly its historical character and architectural integrity.

67-1602. IDAHO STATE CAPITOL -- ALLOCATION AND CONTROL OF SPACE. The space within the interior of the capitol building shall be allocated and controlled as follows:

(1) Public space. The interior within the rotunda, the hallways on the first and second floors, the restrooms located adjacent thereto, the elevators, the stairways between the first, second, third and fourth floors (excepting the interior stairways between the third and fourth floors within the legislative chambers), shall be space within the capitol building open to the public ("public space"). Subject to this chapter, the director of the department of administration shall maintain all public space.

(2) Executive department. The governor shall determine the use and allocate the space within the first and second floors. The director of the department of administration shall maintain such space.

(3) Legislative department. The legislative department shall determine the use of the space on the third and fourth floors as well as the basement. All space within the third and fourth floors and the basement shall be allocated by the presiding officers of the senate and house of representatives. The presiding officers shall maintain such space and provide equipment and furniture thereto, provided however, that the presiding officers may contract with the director of the department of administration to maintain such space and provide equipment and furniture thereto.

67-1603. IDAHO STATE CAPITOL -- EXTERIOR -- GROUNDS -- SYSTEMS. The director of the department of administration shall have exclusive control of the exterior, grounds and systems of the capitol building. The director, in consultation with the governor, the presiding officers of the legislature and the commission created by this chapter, shall have exclusive authority to equip, maintain, and operate such exterior, grounds and systems. For the purposes of this section, "systems" means electrical, HVAC (heating, ventilating, air-conditioning) and telecommunication systems used in the capitol building.

67-1604. IDAHO STATE CAPITOL -- ACCESS AND USE. The director of the department of administration may promulgate rules, pursuant to chapter 52, title 67, Idaho Code, governing access to and use by the public of the capitol building and its grounds. In determining whether to promulgate rules and in the promulgation of any rules, the director shall consult with the governor, the presiding officers of the senate and house of representatives and the commission created by this chapter.

67-1605. LAW ENFORCEMENT AND SECURITY. Responsibility for law enforcement at the capitol building is vested in the director of the department of law enforcement. In coordination with the director of law enforcement, Ada County and Boise City are granted jurisdiction to enforce the laws of the state of Idaho and the ordinances of Ada County and Boise City for the capitol building. The director of the department of administration, or his designee, shall be responsible

for security in the capitol building and has the authority to contract with private contractors to provide security for persons and property in the capitol building.

67-1606. IDAHO STATE CAPITOL COMMISSION -- CREATION AND APPOINTMENT OF MEMBERS. (1) There is hereby created within the department of administration the Idaho state capitol commission, hereafter referred to as the commission. The commission shall consist of nine (9) members, six (6) of whom shall be public members. The public members shall be appointed as follows: four (4) members shall be appointed by the governor, one (1) member shall be appointed by the president pro tempore of the senate and one (1) member shall be appointed by the speaker of the house of representatives. Public members shall serve at the pleasure of the appointing authority, or for a term of five (5) years, whichever is shorter. The terms of initial public members shall expire as designated by the governor at the time of appointment: One (1) at the end of one (1) year; one (1) at the end of two (2) years; one (1) at the end of three (3) years; one (1) at the end of four (4) years; and two (2) at the end of five (5) years. A vacancy during the term of a public member shall be filled by the appointing authority for that member. The chairman of the commission shall be appointed by the governor from among the public members of the commission.

(2) The additional three (3) commission members shall be the director of the department of administration, the director of the Idaho state historical society, and the director of the office of legislative services, who shall serve as ex officio, voting members of the commission during their respective terms of office. The director of the department of administration shall serve as secretary of the commission.

(3) The governor, the president pro tempore of the senate and the speaker of the house may, at their discretion, serve as ex officio, nonvoting members of the commission.

67-1607. ORGANIZATION OF THE COMMISSION. The commission shall meet not less than four (4) times per year. A majority of the membership of the commission constitutes a quorum to transact business. Public members of the commission shall be reimbursed for actual and necessary expenses as provided in section 59-909(c), Idaho Code. Public members are entitled to reimbursement for reasonable travel expenses incurred in the performance of their duties as a member as provided by law.

67-1608. POWERS AND DUTIES OF THE COMMISSION. The commission shall have the following powers and duties:

(1) In consultation with the director of the department of administration, to develop a comprehensive, multiyear, master plan ("master plan") for the restoration and refurbishment of the capitol building and to review periodically, and, as appropriate, to amend and modify the plan. The master plan shall address long-range modifications and improvements to the capitol building and its grounds.

(2) To develop and implement a program to fund the master plan. The program shall include recommendations to the legislature for appropriating public moneys as well as a comprehensive strategy to

obtain moneys from the private sector.

(3) To review all proposals to reconstruct, redecorate or restore all space within the capitol building. All such projects shall be in conformance with the master plan and may not be implemented without the written consent of the commission.

(4) To review all proposals involving objects of art, memorials, statues, or exhibits to be placed on a permanent or temporary basis in public space within the capitol building or on its grounds. All proposals shall be in conformance with the master plan and may not be implemented without the written consent of the commission.

(5) To identify all furniture original to the capitol building and create an inventory of the original furniture. The possession of all original furniture used within the public and executive department space shall be retained by the director of the department of administration. The possession of all original furniture used by the legislative department shall be retained by the presiding officers of the senate and house of representatives. All original furniture is the property of the state of Idaho and shall remain in the capitol building at all times.

(6) For the purpose of promoting interest in the capitol building and obtaining funds to enhance the preservation of original and historic elements of the capitol building and its grounds, to develop and implement a plan for the publishing and sale of publications on the history of the capitol building and to develop other capitol building memorabilia for sale to the public.

(7) To solicit gifts, grants or donations of any kind from any private or public source to carry out the purposes of this chapter. All gifts, grants or donations received directly by the commission shall be transmitted to the state treasurer who shall credit the same to the capitol endowment fund created by this chapter.

(8) To request necessary assistance from all state agencies and the presiding officers of the senate and house of representatives in performing its duties pursuant to this chapter.

(9) To enter into agreements with tax-exempt nonprofit organizations for the purpose of assisting the commission in the performance of its duties under this chapter, including agreements for the establishment and maintenance of community foundation funds dedicated to the purposes of this chapter.

(10) To appoint and contract with the architect of the capitol building as provided by this chapter.

67-1609. ARCHITECT OF THE CAPITOL BUILDING. The architect of the capitol building shall be appointed by the commission and serve at its pleasure. The architect of the capitol building must be accredited to practice in the state of Idaho and shall be selected upon the basis of his professional knowledge and qualifications related to the preservation and restoration of historic structures. The architect of the capitol building shall assist the commission, upon the commission's request, in the performance of its duties pursuant to this chapter. The architect of the capitol building shall not be an employee of the state of Idaho but shall be compensated as are other consulting architects retained by the department of administration, division of public works. Such compensation shall be made from funds appropriated from

the capitol endowment income fund created by this chapter.

67-1610. CAPITOL PERMANENT ENDOWMENT FUND. There is hereby created a permanent fund within the state treasury to be known as the capitol permanent endowment fund, consisting of, from this point forward: (a) the proceeds of the sale of lands granted to the state of Idaho for the purpose of facilitating the construction, repair, furnishing and improvement of public buildings at its capitol by an Act of Congress (26 Stat. L. 214, ch. 656 (1890) (as amended)) entitled "An Act to Provide for the Admission of the State of Idaho into the Union," comprising thirty-two thousand (32,000) acres, or any portion thereof, or mineral therein; (b) all unappropriated and unencumbered moneys in the public building fund shown on the state controller's chart of accounts as Fund No. 0481-09; (c) retained earnings to compensate for the effects of inflation; and (d) legislative appropriations. The fund shall be managed by the endowment fund investment board in accordance with chapter 5, title 68, Idaho Code. All realized earnings shall be credited to the capitol endowment income fund creation in section 67-1611, Idaho Code.

67-1611. CAPITOL ENDOWMENT INCOME FUND. (1) There is hereby created in the state treasury the capitol endowment income fund. The fund shall be managed by the state treasurer and shall consist of the following:

(a) Earnings of the capitol permanent endowment fund;

(b) Proceeds of the sale of timber growing upon capitol endowment lands;

(c) Proceeds of leases of capitol buildings endowment lands;

(d) Proceeds of interest charged upon deferred payments on capitol buildings endowment lands or timber on those lands;

(e) All interests earned on the capitol endowment income fund;

(f) All public and private moneys donated and obtained pursuant to the provisions of this chapter; and

(g) All other proceeds received from the use of capitol building endowment lands and not otherwise designated for deposit in the capitol buildings permanent endowment fund.

(2) All moneys in the capitol endowment income fund shall be subject to annual appropriation by the legislature. All moneys shall be appropriated exclusively for the purposes of this chapter, retained for future appropriation, or transferred to the capitol endowment permanent fund by legislative appropriation.

67-1612. CAPITOL TOURS PROGRAM. There is hereby established a capitol tours program which shall exist to provide a visitor oriented program of historical interpretation and education concerning the Idaho state capitol building and grounds. It is the purpose of this program to assure access and understanding of the capitol building to further the purposes delineated in this chapter. This tours program will take advantage of the efforts to preserve and maintain the capitol building, and open the people's building to the people.

SECTION 3. In addition to any other appropriation made to the Idaho State Historical Society, there is hereby appropriated from the

General Fund to the State Board of Education for the Idaho State Historical Society Historic Sites Maintenance and Interpretation Program the sum of $75,000 for one position and the associated operating and renovation costs of establishing a Capitol Tours Program for the benefit of visitors to the Idaho State Capitol Building and grounds for the period July 1, 1998, through June 30, 1999.

Approved March 24, 1998.

CHAPTER 307
(H.B. No. 701)

AN ACT

RELATING TO HIGHWAYS; AMENDING SECTION 40-1305G, IDAHO CODE, TO INCREASE THE TIME FOR WRITE-IN CANDIDATES TO FILE A DECLARATION OF INTENT.

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

SECTION 1. That Section 40-1305G, Idaho Code, be, and the same is hereby amended to read as follows:

40-1305G. WRITE-IN CANDIDATES. No write-in candidate for any elective office shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of the office. The declaration of intent shall be filed with the highway district election official not less than ~~eleven~~ twenty-five (~~11~~25) days before the date of the election. The election official shall verify the legal qualification of the write-in candidate.

Approved March 24, 1998.

CHAPTER 308
(H.B. No. 708)

AN ACT

RELATING TO ADULT PROTECTION SERVICES; AMENDING SECTION 9-340, IDAHO CODE, TO EXEMPT FROM PUBLIC DISCLOSURE RECORDS OF INVESTIGATIONS COMPILED AND HELD BY THE COMMISSION ON AGING INVOLVING VULNERABLE ADULTS ALLEGED TO BE ABUSED, NEGLECTED OR EXPLOITED; AMENDING CHAPTER 53, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-5301A, IDAHO CODE, TO PROVIDE A DECLARATION OF POLICY; AMENDING SECTION 39-5302, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 39-5303, IDAHO CODE, TO PROVIDE THAT A PERSON MAY REPORT ABUSE, NEGLECT AND EXPLOITATION OF VULNERABLE ADULTS TO THE COMMISSION ON AGING, TO PROVIDE FOR TRAINING, TO MAKE A TECHNICAL CORRECTION, AND TO PROVIDE PENALTIES FOR REPORTS OR ALLEGATIONS MADE IN BAD FAITH WITH MALICE, FALSITY OR OPPRESSION; AMENDING

SECTION 39-5304, IDAHO CODE, TO PROVIDE REFERENCES TO CONTRACTORS AND TO ABBREVIATE REFERENCES TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 39-5305, IDAHO CODE, TO PROVIDE REFERENCES TO CONTRACTORS, TO PROVIDE THAT A POLICE OFFICER'S ASSISTANCE IN AN EMERGENCY MAY INCLUDE A RIGHT OF ENTRY ONTO PRIVATE PROPERTY, TO PROVIDE FOR ASSISTANCE OF A POLICE OFFICER IN A NONEMERGENCY IF CONSENT IS GIVEN AND TO PROVIDE REFERENCES TO THE COMMISSION; AMENDING SECTION 39-5306, IDAHO CODE, TO PROVIDE REFERENCES TO CONTRACTORS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-5308, IDAHO CODE, TO PROVIDE FOR INTERAGENCY COOPERATION, TO PROVIDE FOR QUARTERLY COMMUNICATION WITH THE DEPARTMENT OF HEALTH AND WELFARE AND TO PROVIDE FOR AN EXCHANGE OF INFORMATION; AMENDING SECTION 39-5309, IDAHO CODE, TO PROVIDE REFERENCES TO CONTRACTORS; AND AMENDING SECTION 39-5310, IDAHO CODE, TO MAKE REFERENCE TO MISDEMEANORS AND PUNISHMENTS.

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

SECTION 1. That Section 9-340, Idaho Code, be, and the same is hereby amended to read as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Exemption under state or federal law or court rule.

(a) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(b) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the Idaho supreme court, but only to the extent that confidentiality is provided under such rules, and any drafts or other working memoranda related to judicial decision-making, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(2) Law enforcement records, investigatory records of agencies, worker's compensation.

(a) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(b) Juvenile records of a person maintained pursuant to chapter 5, title 20, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the juvenile. If the juvenile is fourteen (14) years or older and is adjudicated guilty of an offense which would be a felony if committed by an adult, the name, offense of which the juvenile was adjudicated and disposition of the court shall be subject to disclosure. Additionally, facts contained in any records of a juve-

nile maintained under chapter 5, title 20, Idaho Code, shall be furnished upon request to any school district where the juvenile is enrolled or is seeking enrollment.

(c) Records of the department of correction or the commission of pardons and parole to the extent that disclosure thereof would interfere with the secure and orderly conduct of their operations, or the rehabilitation of any person in the custody of the department of correction or on parole, or would substantially prejudice or prevent the carrying out of the functions of the department of correction or the commission of pardons and parole if the public interest in confidentiality clearly outweighs the public interest in disclosure. Records exempt from disclosure shall include, but not be limited to, those containing the names and addresses of witnesses or victims or those containing information identifying victims or witnesses.

(d) Records of the sheriff or department of law enforcement received or maintained pursuant to section 18-3302, Idaho Code, relating to an applicant or licensee.

(e) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

(f) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(g) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(h) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(i) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(ii) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(iii) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(iv) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction.

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

(3) Privacy, personnel records, personal information, health records, professional discipline.

(a) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(b) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(c) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(d) Records of a personal nature as follows:

(i) Records of personal debt filed with a public agency pursuant to law;

(ii) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;
(iii) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;
(iv) Records, with regard to the ownership of, or security interests in, registered public obligations;
(v) Vital statistics records;
(vi) Except as provided in this subsection, all information provided to a law enforcement agency for sex offender registration pursuant to the provisions of section 18-8306, Idaho Code:

1. Such information shall be available upon request to a law enforcement agency; and
2. The information provided pursuant to the provisions of subsections (1) and (3) of section 18-8306, Idaho Code, shall be provided to any person upon written request. Such written request shall include the name and either date of birth or address of the person for whom the information is requested.

(e) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.
(f) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.
(g) Employment security information and unemployment insurance benefit information, except that all interested parties may agree to waive the exemption.
(h) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency pursuant to a statutory requirement for licensing, certification, permit or bonding.
(i) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this sub-

section shall annually make available a statistical summary of the number and types of matters considered and their disposition.

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

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

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

(m) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(4) Trade secrets, production records, appraisals, bids, proprietary information.

(a) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(i) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(ii) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(b) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

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

(d) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(e) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for

the regulation or supervision of the issuance of securities.

(f) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(g) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(h) Financial statements and business information and reports submitted by a legal entity to a port district organized under title 70, Idaho Code, in connection with a business agreement, or with a development proposal or with a financing application for any industrial, manufacturing, or other business activity within a port district.

(i) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided, however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

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

(k) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency.

(l) Records of laboratory test results provided by or retained by the department of agriculture's quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(m) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

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

(o) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

(i) The original data including, but not limited to, numbers, text, voice, graphics and images;

(ii) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(iii) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

(5) Archaeological, endangered species, libraries, legislative, test keys, miscellaneous exemptions.

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

(b) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(c) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(d) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(e) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(f) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative services office by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research

agrees to waive the provisions of confidentiality provided by this subsection.

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

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

SECTION 2. That Chapter 53, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-5301A, Idaho Code, and to read as follows:

39-5301A. DECLARATION OF POLICY. (1) It is the intent of the adult abuse, neglect and exploitation act to authorize the fewest possible restrictions on the exercise of personal freedom and religious beliefs consistent with a vulnerable adult's need for services and to empower vulnerable adults to protect themselves.

(2) The legislature recognizes that vulnerable adults sometimes experience difficulties managing their own affairs or are unable to protect themselves from abuse, neglect or exploitation. Often, vulnerable adults cannot find others who are able or willing to provide assistance.

(3) The commission is directed to investigate allegations of abuse, neglect, self-neglect or exploitation involving a vulnerable adult, to make appropriate referrals to law enforcement, and to arrange for the provision of necessary services. Further, the commission shall honor a vulnerable adult's freedom of choice and right to self-determination. When it becomes necessary for the commission to assist a vulnerable adult, actions shall be tempered by the requirements of due process and must place the fewest possible restrictions on personal freedom. Services provided under this act are also intended to provide assistance to caregiving families experiencing difficulties in maintaining functionally impaired relatives in the household.

(4) In the process of carrying out its adult protection responsibilities, the commission is directed to make effective use of multidisciplinary services available through any and all public agencies, community-based organizations, and informal resources.

SECTION 3. That Section 39-5302, Idaho Code, be, and the same is hereby amended to read as follows:

39-5302. DEFINITIONS. For the purposes of this chapter:

(1) "Abuse" means the ~~nonaccidental~~ intentional or negligent infliction of physical pain, injury or mental injury.

(2) "Caretaker" means any individual or institution that is responsible by relationship, contract, or court order to provide food,

shelter or clothing, medical or other life-sustaining necessities to a vulnerable adult.

(3) "Commission" means the Idaho commission on aging, established pursuant to chapter 50, title 67, Idaho Code.

(4) "Contractor" means an area agency on aging and its duly authorized agents and employees providing adult protection services pursuant to a contract with the commission in accordance with section 67-5011, Idaho Code. The commission designates area agencies on aging pursuant to 42 U.S.C.A. 3025(a)(2)(A) and may establish by rule when duties or obligations under this chapter may be fulfilled by an area agency on aging.

(5) "Department" means the Idaho department of health and welfare.

(6) "Emergency" means ~~a--situation~~ an exigent circumstance in which a vulnerable adult's health and safety is placed in imminent danger. Imminent danger is when death or severe bodily injury could reasonably be expected to occur without intervention.

(~~5~~7) "Exploitation" means an action which may include, but is not limited to, the misuse of a vulnerable adult's funds, property, or resources by another person for profit or advantage.

(~~6~~8) "Neglect" means failure of a caretaker to provide food, clothing, shelter or medical care reasonably necessary to sustain the life and health of a vulnerable adult, or the failure of a vulnerable adult to provide those services for himself.

(~~7~~9) "Supportive services" means noninvestigatory remedial, social, legal, health, educational, mental health and referral services provided to a vulnerable adult.

(~~8~~10) "Vulnerable adult" means a person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person.

Nothing in this chapter shall be construed to mean a person is abused, neglected, or exploited for the sole reason he is relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination; nor shall the provisions of this chapter be construed to require any medical care or treatment in contravention of the stated or implied objection of such a person.

SECTION 4. That Section 39-5303, Idaho Code, be, and the same is hereby amended to read as follows:

39-5303. DUTY TO REPORT CASES OF ABUSE, NEGLECT OR EXPLOITATION OF VULNERABLE ADULTS. (1) Any physician, nurse, employee of a public or private health facility, or a state licensed or certified residential facility serving vulnerable adults, medical examiner, dentist, ombudsman for the elderly, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected or exploited shall immediately report such information to the commission. Provided

however, that skilled nursing facilities defined in section 39-1301(b), Idaho Code, and employees of such facilities shall make reports required under this chapter to the department. ~~of health and welfare.~~ Failure to report as provided under this section is a misdemeanor subject to punishment as provided in section 18-113, Idaho Code.

(2) Any person, including any officer or employee of a financial institution, who has reasonable cause to believe that a vulnerable adult is being abused, neglected or exploited may report such information to the commission or its contractors.

(3) The commission and its contractors shall make training available to officers and employees of financial institutions in identifying and reporting instances of abuse, neglect or exploitation involving vulnerable adults.

(4) Any person who makes any report pursuant to this chapter, or who testifies in any administrative or judicial proceeding arising from such report, or who is authorized to provide supportive or emergency services pursuant to the provisions of this chapter, shall be immune from any civil or criminal liability on account of such report, testimony or ~~provision of~~ services provided in good faith, except that such immunity shall not extend to perjury, reports made in bad faith or with malicious purpose nor, in the case of provision of services, in the presence of gross negligence under the existing circumstances.

(5) Any person who makes a report or allegation in bad faith, with malice or knowing it to be false, shall be liable to the party against whom the report was made for the amount of actual damages sustained or statutory damages in the amount of five hundred dollars ($500), whichever is greater, plus attorney's fees and costs of suit. If the court finds that the defendant acted with malice or oppression, the court may award treble actual damages or treble statutory damages, whichever is greater.

SECTION 5. That Section 39-5304, Idaho Code, be, and the same is hereby amended to read as follows:

39-5304. REPORTING REQUIREMENTS, INVESTIGATION, EMERGENCY ACCESS. (1) When a report is required pursuant to this chapter, such report shall be made immediately to the commission or appropriate contractor. Provided however, that skilled nursing facilities defined in section 39-1301(b), Idaho Code, and employees of such facilities shall make reports required under this chapter to the department. ~~of health and welfare.~~ If known, the report shall contain the name and address of the vulnerable adult; the caretaker; the alleged perpetrator; the nature and extent of suspected abuse, neglect or exploitation; and any other information that will be of assistance in the investigation.

(2) If the allegations in the report indicate that an emergency exists, the commission or contractor must initiate an investigation immediately, and initiate contact with the alleged vulnerable adult within twenty-four (24) hours. All other investigations must be initiated within seventy-two (72) hours.

(3) The ~~commission's~~ investigation shall include a determination of the nature, extent and cause of the abuse, neglect, or exploitation, examination of evidence and consultation with persons thought to

have knowledge of the circumstances and identification, if possible, of the person alleged to be responsible for the abuse, neglect or exploitation of the vulnerable adult.

(4) The investigation shall include an interview with the vulnerable adult, if possible. The commission or contractor shall conduct the interview, preferably, by means of a personal visit with the vulnerable adult in the adult's dwelling. If that is not possible, the interview may occur in the local office of the commission or contractor, or by telephone conversation, or by any other means available to the commission or contractor.

(5) Upon completion of an investigation, the commission or contractor shall prepare a written report of the investigation. The name of the person making the original report or any person mentioned in the report shall not be disclosed unless those persons specifically request such disclosure or unless the disclosure is made pursuant to a request to law enforcement for emergency access, a court order or hearing.

If the abuse, neglect, or exploitation is substantiated to have occurred in a state certified or licensed facility, a copy of the findings shall be sent to the licensing and certification office of the department. ~~of health and welfare.~~

If the commission or contractor determines that a report is unsubstantiated and that no other law has been violated, all records related to the report shall be expunged no later than three (3) years following the completion of the investigation.

SECTION 6. That Section 39-5305, Idaho Code, be, and the same is hereby amended to read as follows:

39-5305. INSPECTIONS -- RIGHT OF ENTRY. (1) Upon receiving information that a vulnerable adult is alleged to be abused, neglected, or exploited, the commission or contractor shall cause such investigation to be made in accordance with the provisions of this chapter as is appropriate. In making the investigation, the commission or contractor shall use its own resources and may enlist the cooperation of peace officers. In an emergency any authorized commission employee or ~~contract--employee~~ contractor shall enlist the cooperation of a peace officer to ensure the safety of the vulnerable adult, and they shall receive the peace officer's assistance. Assistance in an emergency may include entry on private or public property where a vulnerable adult is allegedly subject to abuse, neglect or exploitation, and the removal and transportation of the vulnerable adult to a medical facility, care-providing facility, or other appropriate and safe environment.

(2) In a nonemergency, any peace officer may cooperate with an authorized commission employee or contractor in ensuring the safety of a vulnerable adult who has been abused, neglected or exploited, including a vulnerable adult living in a condition of self-neglect. Assistance shall only be provided with the consent of the vulnerable adult or his legal representative.

(3) For the purposes of implementing or enforcing any provision of this chapter or any rule authorized under the provisions of this chapter, any duly authorized ~~state~~ commission employee or ~~representa-~~

~~tive~~ contractor may, upon presentation of appropriate credentials at any reasonable time, with consent or in an emergency, enter upon any private or public property where a vulnerable adult allegedly is subject to abuse, neglect, or exploitation.

(~~3~~4) All inspections and searches conducted under the provisions of this chapter shall be performed in conformity with the prohibitions against unreasonable searches and seizures contained in the fourth amendment to the constitution of the United States and article I, section 17, of the constitution of the state of Idaho. The state shall not, under the authority granted in this chapter, conduct warrantless administrative searches of private property except with consent, or in an emergency.

(~~4~~5) If consent to entry is not given, a commission ~~representative~~ employee or contractor with the assistance of the county prosecutor may obtain, and any magistrate or district judge is authorized to issue a search warrant upon showing that probable cause exists to believe a vulnerable adult is subject to abuse, neglect or exploitation. Upon request of a commission ~~representative~~ employee or contractor, a peace officer shall serve the search warrant.

SECTION 7. That Section 39-5306, Idaho Code, be, and the same is hereby amended to read as follows:

39-5306. SUPPORTIVE SERVICES AND DISCLOSURE. (1) If there is substantiated abuse, neglect, or exploitation of a vulnerable adult, the commission or contractor has the responsibility to assist the adult in obtaining available services.

(2) If the commission or contractor develops a plan of supportive services for the vulnerable adult, the plan shall provide for appropriate supportive services available to the vulnerable adult that are least restrictive ~~for--the~~ to personal freedom and shall provide encouragement for client self-determination and continuity of care.

(3) If the vulnerable adult does not consent to the receipt of reasonable and necessary supportive services, or if the vulnerable adult withdraws consent, services shall not be provided or continued.

(4) If the commission or contractor determines that a vulnerable adult is an incapacitated person, as defined in section 15-5-101(a), Idaho Code, mentally ill as defined in section 66-317, Idaho Code, or developmentally disabled as defined in section 66-402, Idaho Code, the commission or contractor may petition the court for protective proceedings, appointment of a guardian or conservator and such other relief as may be provided by chapter 5, title 15, Idaho Code, and chapters 3 and 4, title 66, Idaho Code.

(5) An employee or ~~contract-employee~~ contractor of the commission shall not be appointed the guardian or conservator of a vulnerable adult unless the commission employee or ~~contract--employee~~ contractor has a spousal or familial relationship with the vulnerable adult.

SECTION 8. That Section 39-5308, Idaho Code, be, and the same is hereby amended to read as follows:

39-5308. INTERAGENCY COOPERATION. (1) In performing the duties set forth in this chapter, the commission or contractor may request

the assistance of the staffs and resources of all appropriate state departments, agencies and commissions and local health directors, and may utilize any other public or private agencies, groups or individuals who are appropriate and who may be available. Interagency cooperation shall include the involvement, when appropriate, of law enforcement personnel, department personnel, medical personnel, and any other person or entity deemed necessary due to their specialized training in providing services to vulnerable adults. Interagency cooperation may also include access to client information necessary for the provision of services to vulnerable adults.

(2) The commission shall provide to the department ~~of health and welfare a periodic current~~ on at least a quarterly basis a listing of all alleged perpetrators against whom an allegation of adult abuse, neglect or exploitation has been substantiated. ~~to be used pursuant to statutory authority and rule~~ Upon request, all available supportive information shall be provided to enable the department to conduct ~~a~~ criminal background ~~check or~~ checks and other required investigations.

(3) The department shall provide to the commission or contractor any report received under this chapter from a skilled nursing facility defined in section 39-1301(b), Idaho Code, or an employee of such facility.

(4) The commission or contractor shall provide the department with any report received under this chapter involving allegations of abuse, neglect or exploitation occurring in a skilled nursing facility as defined in section 39-1301(b), Idaho Code.

(5) The commission, contractors and the department shall use interagency staffing when necessary and share client and facility information necessary to provide services to vulnerable adults.

SECTION 9. That Section 39-5309, Idaho Code, be, and the same is hereby amended to read as follows:

39-5309. COORDINATION OF SERVICES. Subsequent to the authorization for the provision of reasonable and necessary emergency and support services, the commission or contractor shall initiate a review of each case at reasonable intervals over a reasonable period of time as the commission or contractor deems necessary based upon the circumstances in each individual case to determine whether continuation or modification of the services provided is warranted. A decision to continue the provision of such services should be made in concert with appropriate personnel from state agencies, departments, service providers and others, and shall comply with the consent provisions of this chapter.

SECTION 10. That Section 39-5310, Idaho Code, be, and the same is hereby amended to read as follows:

39-5310. REPORT TO LAW ENFORCEMENT -- PROSECUTION. If, as the result of any investigation initiated under the provisions of this chapter, it appears that the abuse, neglect, or exploitation has caused injury or a serious imposition on the rights of the vulnerable adult, the commission shall immediately notify the appropriate law enforcement agency which shall initiate an investigation and shall

determine whether criminal proceedings should be initiated against the caretaker or other persons in accordance with applicable state law. The abuse, neglect, or exploitation of a vulnerable adult is a misdemeanor under section 18-1505, Idaho Code, and is subject to punishments provided in section 18-113, Idaho Code, and other applicable state law.

Approved March 24, 1998.

CHAPTER 309
(H.B. No. 723, As Amended)

AN ACT

RELATING TO DOMESTIC ASSAULT AND BATTERY; AMENDING SECTION 18-918, IDAHO CODE, TO DOUBLE THE PENALTIES PROVIDED FOR AN ACT OF DOMESTIC ASSAULT OR BATTERY WHEN THE ACT IS COMMITTED IN THE PRESENCE OF A CHILD, TO DEFINE THE PHRASE "IN THE PRESENCE OF A CHILD" AND TO DEFINE "CHILD."

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

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

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

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

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

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

(b) The maximum penalties provided in this section shall be doubled where the act of domestic assault or battery for which the person is convicted or pleads guilty took place in the presence of a child. For purposes of this section, "in the presence of a

child" means in the physical presence of a child or knowing that a child is present and may see or hear an act of domestic assault or battery. For purposes of this section, "child" means a person under sixteen (16) years of age.

(5) (a) Any person who pleads guilty or is found guilty of a violation of this section shall undergo, at the person's own expense and prior to the sentencing date, an evaluation by a person, agency or organization approved by the court in accordance with subsection (c) of this section to determine whether the defendant should be required to obtain aggression counseling or other appropriate treatment for anger control and prevention. If the evaluation recommends counseling or other treatment, the evaluation shall recommend the type of counseling or treatment considered appropriate for the defendant, together with the estimated costs thereof, and shall recommend any other suitable alternative counseling or treatment programs, together with the estimated costs thereof. The defendant shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that counseling is required unless the defendant makes a showing by a preponderance of evidence that counseling is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If counseling or other treatment is ordered, in no event shall the person, agency or organization doing the evaluation be the person, agency or organization that provides the counseling or other treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized for court-ordered counseling or treatment pursuant to this section for indigent defendants as provided by law. In the event that funding is provided for or on behalf of the defendant by a governmental entity, the defendant shall be ordered to make restitution to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code.

(b) If the evaluation recommends counseling or other treatment, the court shall order the person to complete the counseling or other treatment in addition to any other sentence which may be imposed. If the court determines that counseling or treatment would be inappropriate or undesirable, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred counseling or treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such counseling or treatment. In that event, the court may

order the defendant to complete a less costly alternative set forth in the evaluation or a comparable program. Nothing contained in this subsection shall be construed as requiring a court to order that counseling or treatment be provided at government expense unless otherwise required by law.

(c) Each judicial district shall by rule establish a uniform system for the qualification and approval of persons, agencies or organizations to perform the evaluations required in this subsection. Only qualified evaluators approved by the court shall be authorized to perform such evaluations. Funds to establish a system for approval of evaluators shall be derived from moneys designated therefor and deposited in the district court fund as provided in section 31-3201A(p), Idaho Code.

Approved March 24, 1998.

CHAPTER 310
(H.B. No. 736)

AN ACT

RELATING TO TERMINATION OF THE PARENT AND CHILD RELATIONSHIP; AMENDING SECTION 16-2005, IDAHO CODE, TO PROVIDE FOR ACCEPTANCE BY AN IDAHO COURT OF A CONSENT TO TERMINATION OR A SURRENDER AND RELEASE EXECUTED IN ANOTHER STATE.

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

SECTION 1. 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)

The court shall accept a consent or a surrender and release executed in another state if:

(1) It is witnessed by a magistrate or district judge of the state where signed; or

(2) The court receives an affidavit or a certificate from a court of comparable jurisdiction stating that the consent or the surrender and release was executed in accordance with the laws of the state in which it was executed, or the court is satisfied by other

showing that the consent or surrender and release was executed in accordance with the laws of the state in which it was executed.

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.

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 24, 1998.

CHAPTER 311
(H.B. No. 742, As Amended)

AN ACT

RELATING TO MEDICAL ASSISTANCE PROGRAMS; TO PROVIDE A STATEMENT OF LEGISLATIVE FINDINGS; AND AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-209h, IDAHO CODE, TO DEFINE TERMS, TO ESTABLISH REQUIREMENTS FOR DOCUMENTATION OF MEDICAL ASSISTANCE SERVICES, TO PROVIDE FOR SUSPENSION OF PAYMENTS OR PROVIDER AGREEMENT, TO PROVIDE FOR RECOVERY OF PAYMENTS FOR MEDICAL ASSISTANCE SERVICES, TO PROVIDE TERMINATION OF PROVIDER AGREEMENTS, TO PROVIDE FOR PENALTIES FOR ABUSE AND FRAUD AND TO PROVIDE EXCLUSION FROM PARTICIPATION AS A PROVIDER.

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

SECTION 1. FINDINGS. The legislature finds that provider fraud and abuse in medical assistance programs is a potential problem which demands effective administrative remedies. This act is intended to provide explicit authority to the Department of Health and Welfare to establish conditions of payments, to suspend payments and impose interest charges, to terminate provider agreements and deny provider status, to impose civil monetary penalties and to exclude certain

individuals and entities.

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

56-209h. ADMINISTRATIVE REMEDIES. (1) Definitions. For purposes of this section:

(a) "Abuse" or "abusive" means provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the medical assistance program, in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care, or in physical harm, pain or mental anguish to a medical assistance recipient.

(b) "Claim" means any request or demand for payment of items or services under the state's medical assistance program, whether under a contract or otherwise.

(c) "Fraud" or "Fraudulent" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person.

(d) "Knowingly," "known" or "with knowledge" means that a person, with respect to information or an action:

(i) Has actual knowledge of the information or action; or

(ii) Acts in deliberate ignorance of the truth or falsity of the information or the correctness or incorrectness of the action; or

(iii) Acts in reckless disregard of the truth or falsity of the information or the correctness or incorrectness of the action.

(e) "Managing employee" means a general manager, business manager, administrator, director or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of, an institution, organization or agency.

(f) "Ownership or control interest" means a person or entity that:

(i) Has an ownership interest totaling twenty-five percent (25%) or more in an entity; or

(ii) Is an officer or director of an entity that is organized as a corporation; or

(iii) Is a partner in an entity that is organized as a partnership; or

(iv) Is a managing member in an entity that is organized as a limited liability company.

(2) Documentation of services. All claims submitted by providers for payment are subject to prepayment and postpayment review as designated by rule. Except as otherwise provided by rule, providers shall generate documentation at the time of service sufficient to support each claim and shall retain the documentation for a minimum of five (5) years from the date the item or service was provided. The depart-

ment or authorized agent shall be given immediate access to such documentation upon written request.

(3) Immediate action. In the event that the department identifies a suspected case of fraud or abuse and the department has reason to believe that payments made during the investigation may be difficult or impractical to recover, the department may suspend or withhold payments to the provider pending investigation. In the event that the department identifies a suspected case of fraud or abuse and it determines that it is necessary to prevent or avoid immediate danger to the public health or safety, the department may summarily suspend a provider agreement pending investigation. When payments have been suspended or withheld or a provider agreement suspended pending investigation, the department shall provide for a hearing within thirty (30) days of receipt of any duly filed notice of appeal.

(4) Recovery of payments. If it is determined that any condition of payment contained in rule, regulation, statute, or provider agreement was not met, the department may recover any payments made for items or services. Interest shall accrue on overpayments at the statutory rate set forth in section 28-22-104, Idaho Code, from the date of final determination of the amount owed for items or services until the date of recovery.

(5) Provider status. The department may terminate the provider agreement or otherwise deny provider status to any individual or entity who:

(a) Submits a claim with knowledge that the claim is incorrect, including reporting costs as allowable which were known to be disallowed in a previous audit, unless the provider clearly indicates that the item is being claimed to establish the basis for an appeal and each disputed item and amount is specifically identified; or

(b) Submits a fraudulent claim; or

(c) Knowingly makes a false statement or representation of material fact in any document required to be maintained or submitted to the department; or

(d) Submits a claim for an item or service known to be medically unnecessary; or

(e) Fails to provide, upon written request by the department, immediate access to documentation required to be maintained; or

(f) Fails repeatedly or substantially to comply with the rules and regulations governing medical assistance payments; or

(g) Knowingly violates any material term or condition of its provider agreement; or

(h) Has failed to repay, or was a "managing employee" or had an "ownership or control interest" in any entity that has failed to repay, any overpayments or claims previously found to have been obtained contrary to statute, rule, regulation or provider agreement; or

(i) Has been found, or was a "managing employee" in any entity which has been found, to have engaged in fraudulent conduct or abusive conduct in connection with the delivery of health care items or services; or

(j) Fails to meet the qualifications specifically required by rule or by any applicable licensing board.

Any individual or entity denied provider status under this section may be precluded from participating as a provider in the medical assistance program for up to five (5) years from the date the department's action becomes final.

(6) Civil monetary penalties. The department may also assess civil monetary penalties against a provider and any officer, director, owner, and/or managing employee of a provider for conduct identified in subsections (5)(a) through (5)(i) of this section. The amount of the penalties shall be up to one thousand dollars ($1,000) for each item or service improperly claimed, except that in the case of multiple penalties the department may reduce the penalties to not less than twenty-five percent (25%) of the amount of each item or service improperly claimed if an amount can be readily determined. Each line item of a claim, or cost on a cost report is considered a separate claim. These penalties are intended to be remedial, recovering costs of investigation and administrative review, and placing the costs associated with noncompliance on the offending provider.

(7) Exclusion. Any individual or entity convicted of a criminal offense related to the delivery of an item or service under any state or federal program shall be excluded from program participation for a period of not less than ten (10) years. Unless otherwise provided in this section or required by federal law, the department may exclude any individual or entity for a period of not less than one (1) year for any conduct for which the secretary of the department of health and human services or designee could exclude an individual or entity.

(8) Adoption of rules. The department shall promulgate such rules as are necessary to carry out the policies and purposes of this section.

Approved March 24, 1998.

CHAPTER 312
(H.B. No. 768, As Amended in the Senate)

AN ACT

RELATING TO BEER, WINE OR OTHER ALCOHOL AGE VIOLATIONS; AMENDING SECTION 18-1502, IDAHO CODE, TO PROVIDE THAT A CONVICTION OF A PERSON ON THE BASIS OF AGE FOR A VIOLATION OF LAWS PERTAINING TO THE USE, POSSESSION, PROCUREMENT OR DISPENSING OF BEER, WINE OR OTHER ALCOHOLIC BEVERAGES SHALL NOT BE USED OR CONSIDERED IN ANY MANNER FOR PURPOSES OF MOTOR VEHICLE INSURANCE.

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

SECTION 1. That Section 18-1502, Idaho Code, be, and the same is hereby amended to read as follows:

18-1502. BEER, WINE OR OTHER ALCOHOL AGE VIOLATIONS -- FINES. (a) Whenever a person is in violation, on the basis of his age, of any federal, state, or municipal law or ordinance pertaining to the use, possession, procurement, or attempted procurement, or dispensing of

any beer, wine or other alcoholic beverage product, the violation shall constitute a misdemeanor.

(b) Every person convicted of a misdemeanor under this section shall be punished by a fine of not more than one thousand dollars ($1,000). The second conviction under this section shall be punished by a fine of not more than two thousand dollars ($2,000), or up to thirty (30) days in jail or both. The third and subsequent conviction under this section shall be punished by a fine of not more than three thousand dollars ($3,000), or up to sixty (60) days in jail or both.

(c) A conviction under this section shall not be used ~~as a factor~~ or considered in any manner for ~~the~~ purposes of ~~establishing rates of~~ motor vehicle insurance. ~~charged by a casualty insurer, nor shall such conviction be grounds for nonrenewal of any insurance policy as provided in section 41-2507, Idaho Code.~~

(d) Whenever a person pleads guilty or is found guilty of violating any law pertaining to the possession, use, procurement, attempted procurement or dispensing of any beer, wine, or other alcoholic beverage, and such person was under twenty-one (21) years of age at the time of such violation, then in addition to the penalty provided in subsection (b) of this section:

(1) The court shall suspend the person's driving privileges for a period of not more than one (1) year. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(2) If the person's driving privileges have been previously suspended under this section, the court shall suspend the person's driving privileges for a period of not more than two (2) years. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(3) The person shall surrender his license or permit to the court.

(4) The court shall notify the motor vehicle division of the Idaho transportation department of all orders of suspension it issues pursuant to this section.

(5) The court, in its discretion, may also order the person to undergo and complete an alcohol evaluation and to complete an alcohol treatment or education program in the same manner that persons sentenced pursuant to section 18-8005, Idaho Code, are required to undergo and complete.

Approved March 24, 1998.

CHAPTER 313
(H.B. No. 776)

AN ACT

RELATING TO INTERNATIONAL ADOPTION; AMENDING SECTION 16-1514, IDAHO CODE, TO RECOGNIZE THAT IF A CHILD HAS BEEN ADMITTED INTO THE

UNITED STATES FOR HUMANITARIAN REASONS RELATING TO ADOPTION IN THE UNITED STATES, THAT FACT MAY BE INCLUDED IN THE ADOPTION PETITION, AND TO PROVIDE APPLICATION OF THE STATUTE TO A CHILD ENTERING THE UNITED STATES FOR HUMANITARIAN REASONS RELATING TO ADOPTION BY UNITED STATES CITIZENS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 16-1514, Idaho Code, be, and the same is hereby amended to read as follows:

16-1514. INTERNATIONAL ADOPTION. (1) Proceedings to adopt a foreign born child who has been allowed to enter the United States for the purpose of adoption shall be commenced by the filing of a petition under this section. Similarly, United States citizen parents who have adopted a child in a foreign country may commence proceedings to have the foreign adoption recognized and granted judicial comity by the filing of a petition under this section. A petition under this section shall be initiated by the person or persons proposing to adopt the child and shall be filed with the district court of the judicial district in which said person or persons reside. The petitioner shall have resided and maintained a dwelling within the state of Idaho for at least six (6) consecutive months prior to the filing of a petition. The petition shall set forth the following:

(a) The name and address of the petitioner or petitioners;

(b) The name of the child proposed to be adopted and the name by which he or she shall be known when adopted;

(c) The degree of relationship of the child, if any, to the petitioner or petitioners;

(d) The child's country of origin, and date of birth, if known;

(e) That the child has been issued a visa or other document authorizing entry into the United States as an immigrant or for the purpose of adoption <u>or for humanitarian reasons relating to adoption</u> in the United States and the date of the person's entry into the United States;

(f) That a home study of the petitioner or petitioners was prepared and the name of the person or agency performing the home study. A copy of the home study shall be attached to the petition;

(g) That, to the information and belief of the petitioners, the biological parents of the child to be adopted are residents of another country;

(h) That the adoption of such child is in the child's best interests.

(2) At the time fixed for the hearing on a petition for adoption under this section, the person or persons adopting the child and the child to be adopted must appear before the court where the petition was filed. The judge shall examine the petitioner or petitioners at the hearing and, if satisfied that the proposed adoption is in the best interests of the child to be adopted, shall enter a decree of adoption. The petitioner or petitioners shall at such time execute an agreement to the effect that the child shall be adopted and treated in all respects as the petitioner's own lawful child.

(3) This section governs the adoption of all foreign born chil-

dren who have entered the United States to be adopted or who have entered the United States as immigrants after having been adopted in a foreign country by United States citizens. Notwithstanding any other provision of this chapter, no consent shall be required from the biological parents of the child to be adopted if the child has been granted permission by the United States department of state or United States department of justice, immigration and naturalization service to enter the United States for the purpose of adoption, or for humanitarian reasons relating to adoption by United States citizens, or as an immigrant after having been adopted in a foreign country by United States citizens. A visa or other document from the United States department of state or United States department of justice, immigration and naturalization service authorizing entry into the United States for the purpose of adoption, or for humanitarian reasons relating to adoption by United States citizens, or as an immigrant due to adoption in a foreign country by a United States citizens, shall be deemed conclusive evidence of the termination of the parental rights of the biological parents and compliance with the laws of the country of the child's birth. The provisions of chapter 20, title 16, Idaho Code, shall not apply to adoptions under this section.

(4) The decisions and orders of foreign courts and government agencies, authorized to approve adoptions, shall be accorded judicial comity or the same full faith and credit accorded a judgment of a sister state without additional proceedings or documentation, provided the United States department of state or United States department of justice, immigration and naturalization service has allowed the child to enter the United States as set forth in subsection (3) of this section.

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

Approved March 24, 1998.

CHAPTER 314
(H.B. No. 803)

AN ACT

RELATING TO THE GOVERNOR'S IDAHO LEWIS AND CLARK TRAIL COMMITTEE FUND; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 86, TITLE 67, IDAHO CODE, TO CREATE THE GOVERNOR'S IDAHO LEWIS AND CLARK TRAIL COMMITTEE FUND AND SPECIFY PURPOSES OF THE FUND.

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 86, Title 67, Idaho Code, and to read as follows:

CHAPTER 86
LEWIS AND CLARK TRAIL COMMITTEE

67-8601. GOVERNOR'S IDAHO LEWIS AND CLARK TRAIL COMMITTEE FUND. There is hereby created the governor's Idaho Lewis and Clark trail committee fund in the state treasury. Moneys in the fund may consist of donations, ticket sale proceeds, contributions, appropriations, grants, gifts, bequests or other sources and shall be utilized in support of the efforts of the advisory board to preserve the Lewis and Clark trail and other needs related directly to overseeing and coordinating the bicentennial commemoration of the Lewis and Clark corps of discovery.

Approved March 24, 1998.

CHAPTER 315
(H.B. No. 807)

AN ACT

APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR 1999.

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 for Trustee and Benefit Payments from the listed fund to be expended for the period July 1, 1998, through June 30, 1999:

FOR:	
Trustee/Benefit Payments	$13,606,000
FROM:	
General Fund	$13,606,000

Approved March 24, 1998.

CHAPTER 316
(H.B. No. 808)

AN ACT

APPROPRIATING MONEYS FOR THE HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 1999; 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 fol-

lowing amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WOI VETERINARY EDUCATION:					
FROM:					
General Fund	$ 388,100	$ 915,900	$13,200		$1,317,200
II. WWAMI MEDICAL EDUCATION:					
FROM:					
General Fund	$ 572,100	$ 61,400	$13,600	$1,965,100	$2,612,200
Unrestricted Current Fund	29,000	3,200		92,200	124,400
TOTAL	$ 601,100	$ 64,600	$13,600	$2,057,300	$2,736,600
III. IDEP DENTAL EDUCATION:					
FROM:					
General Fund	$ 151,600	$ 12,700	$ 5,000	$ 395,000	$ 564,300
Unrestricted Current Fund	67,900				67,900
TOTAL	$ 219,500	$ 12,700	$ 5,000	$ 395,000	$ 632,200
IV. WICHE AND UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General Fund				$ 716,500	$ 716,500
V. FAMILY PRACTICE RESIDENCIES:					
FROM:					
General Fund	$ 338,700	$ 29,000	$ 1,500	$ 369,200	$ 738,400
GRAND TOTAL	$1,547,400	$1,022,200	$33,300	$3,538,000	$6,140,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than nineteen and fifty-five hundredths (19.55) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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, WWAMI Medical Education Program, IDEP Dental Education Program, WICHE and University of Utah Medical Education Program, and Family Practice Residencies Program the unexpended and unencumbered balance of any appropriation made to each

respective program under Section 1, Chapter 333, Laws of 1997, for each respective program to be used for nonrecurring expenditures for the period July 1, 1998, through June 30, 1999.

SECTION 4. The reappropriation for the General Fund 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, 1998, 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, 1998, 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 24, 1998.

CHAPTER 317
(H.B. No. 809)

AN ACT

APPROPRIATING MONEYS FOR GENERAL EDUCATION PROGRAMS AT BOISE STATE UNIVERSITY, IDAHO STATE UNIVERSITY, LEWIS-CLARK STATE COLLEGE, THE UNIVERSITY OF IDAHO AND FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1999; LIMITING THE AMOUNT OF THE GENERAL FUND APPROPRIATION TO BE USED BY THE OFFICE OF THE STATE BOARD OF EDUCATION; ESTABLISHING AN AMOUNT OF THE GENERAL FUND APPROPRIATION THAT IS TO BE EXPENDED FOR RESEARCH AND EXPRESSING LEGISLATIVE INTENT FOR THE SPECIFIC RESEARCH GRANT PROGRAM; ESTABLISHING AN AMOUNT OF THE GENERAL FUND APPROPRIATION TO BE EXPENDED FOR COMPETITIVE TECHNOLOGY GRANTS AND FOR PARTICIPATION IN THE WESTERN GOVERNOR'S ASSOCIATION VIRTUAL UNIVERSITY AND EXPRESSING LEGISLATIVE INTENT AS TO COORDINATION WITH THE STATE COUNCIL FOR TECHNOLOGY IN LEARNING; MAKING CERTAIN IDAHO CODE PROVISIONS SPECIFICALLY AVAILABLE TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State University, Lewis-Clark State College, the University of Idaho, and the Office of the State Board of Education the following amount, to be expended for the designated programs from the listed funds for the period July 1, 1998, through June 30, 1999:

FOR:	
General Education Programs	$256,710,500
FROM:	
General Fund	$192,917,100
Agricultural College Endowment Fund	808,100
Charitable Institutions Endowment Earnings Fund	752,600
Normal School Endowment Earnings Fund	3,275,900
Science School Endowment Fund	3,839,100
University Endowment Fund	2,693,100
Unrestricted Current Fund	23,397,100
Restricted Current Fund	29,027,500
TOTAL	$256,710,500

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

SECTION 3. Of the amount appropriated from the General Fund in Section 1 of this act, $1,600,000 shall be used for matching awards, research centers, and infrastructure, with commercial application as a goal. It is legislative intent that the specific research grant program be terminated.

SECTION 4. Of the amount appropriated from the General Fund in Section 1 of this act, $1,750,000 shall be used for a competitive grant program to foster innovative learning approaches using technology, and for Idaho's participation in the Western Governor's Association Virtual University. It is legislative intent that these funds be expended in coordination with the State Council for Technology in Learning.

SECTION 5. The provisions of Sections 67-3608, 67-3609, 67-3610 and 67-3611, Idaho Code, are hereby made available to the State Board of Education and the Board of Regents of the University of Idaho for the period July 1, 1998, through June 30, 1999, the provisions of Section 67-3516(1), Idaho Code, with respect to non-General Fund moneys only, and Section 67-3516(3) and (4), Idaho Code, notwithstanding.

SECTION 6. There is hereby reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State University, Lewis-Clark State College, the University of Idaho and the Office of the State Board of Education, subject to the provisions of Section 7 of this act, the unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 165, Laws of 1997, to be used for nonrecurring expenditures, for the period July 1, 1998, through June 30, 1999.

SECTION 7. The reappropriation for the General Fund granted in Section 6 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1998, is zero, the reappropriation for the General Fund in Section 6 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General

Fund on June 30, 1998, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 6 of this act shall be in the proportion that the reappropriation for Boise State University, Idaho State University, Lewis-Clark State College, the University of Idaho and the Office of the State Board of Education bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 24, 1998.

CHAPTER 318
(H.B. No. 812)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 1999; 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, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,622,500	$685,800	$157,000		$2,465,300
Federal Grant Fund	156,700	200,000	25,000	$610,900	992,600
Miscellaneous Revenue Fund		25,200	25,000	25,000	75,200
TOTAL	$1,779,200	$911,000	$207,000	$635,900	$3,533,100

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Library is authorized no more than forty-four and eighty-five hundredths (44.85) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the State Board of Education for the State Library Board the unexpended and unencumbered balance of any General Fund appropriation contained in Section 1, Chapter 324, Laws of 1997, to be used for nonrecurring expenditures

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

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, 1998, 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, 1998, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the State Library Board bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 24, 1998.

CHAPTER 319
(H.B. No. 813)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 1999; AND AUTHORIZING ADDITIONAL FULL-TIME POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Fish and Game the following amounts to be expended for the designated programs according to the designated standard classifications from the listed fund for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ENFORCEMENT:				
FROM:				
Fish and Game Fund	$196,400	$107,000	$116,600	$ 420,000
II. WILDLIFE:				
FROM:				
Fish and Game Fund	$216,200	$783,800		$1,000,000
GRAND TOTAL	$412,600	$890,800	$116,600	$1,420,000

SECTION 2. In addition to the full-time positions authorized in House Bill No. 778, Second Regular Session of the Fifty-fourth Idaho Legislature, there is hereby authorized an additional four (4) full-time positions for the Department of Fish and Game for the period July 1, 1998, through June 30, 1999.

Approved March 24, 1998.

CHAPTER 320
(H.B. No. 814)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 1999; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED GENERAL FUND BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of 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, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. HISTORIC PRESERVATION AND EDUCATION:					
FROM:					
General Fund	$ 977,500	$329,800	$71,100	$ 2,700	$1,381,100
Federal Grant Fund	477,200	92,600		41,900	611,700
Miscellaneous Revenue Fund	63,000	124,600		4,600	192,200
TOTAL	$1,517,700	$547,000	$71,100	$49,200	$2,185,000
II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:					
FROM:					
General Fund	$ 81,800	$ 38,600			$ 120,400
Miscellaneous Revenue Fund	110,300	94,800	$ 800		205,900
TOTAL	$ 192,100	$133,400	$ 800		$ 326,300
GRAND TOTAL	$1,709,800	$680,400	$71,900	$49,200	$2,511,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than thirty-seven and thirty-six hundredths (37.36) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 State Board of Education for the Idaho State Historical Society the unexpended and unencumbered balance of any General Fund appropriation contained in Section 1, Chapter 287, Laws of 1997, to be used for nonrecurring

expenditures for the period July 1, 1998, through June 30, 1999.

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, 1998, 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, 1998, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the Idaho State Historical Society bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 24, 1998.

CHAPTER 321
(H.B. No. 815)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1999; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED FUND BALANCES; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING A SECOND YEAR APPROPRIATION FOR A PARTICULAR PROJECT.

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, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. SUPPORT SERVICES:						
FROM:						
General Fund	$ 1,092,800	$ 909,400	$ 46,000			$ 2,048,200
Department of Lands Fund	256,300	139,200	25,200			420,700
Land Improvement Fund	112,100	229,000	24,800			365,900
Federal Grant Fund	51,400	126,300				177,700
TOTAL	$ 1,512,600	$1,403,900	$ 96,000			$ 3,012,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
II. FOREST RESOURCES MANAGEMENT:						
FROM:						
General Fund	$ 3,021,400	$ 370,400	$ 81,400			$ 3,473,200
Department of Lands Fund	1,534,300	915,300	23,000			2,472,600
Land Improvement Fund	2,122,600	2,158,300	241,100			4,522,000
Community Forestry Fund				$ 78,500		78,500
Federal Grant Fund	459,900	235,900		156,000		851,800
TOTAL	$ 7,138,200	$3,679,900	$345,500	$234,500		$11,398,100
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:						
FROM:						
General Fund	$ 1,816,500	$2,114,500	$ 75,900			$ 4,006,900
Department of Lands Fund		131,700				131,700
Land and Building Rental Fund	1,000	61,900				62,900
Land Improvement Fund	214,100	262,000				476,100
TOTAL	$ 2,031,600	$2,570,100	$ 75,900			$ 4,677,600
IV. FOREST AND RANGE FIRE PROTECTION:						
FROM:						
General Fund					$2,482,100	$ 2,482,100
Department of Lands Fund					3,491,700	3,491,700
Fire Suppression Deficiency Fund					113,000	113,000
Federal Grant Fund					293,900	293,900
TOTAL					$6,380,700	$ 6,380,700
V. SCALING PRACTICES:						
FROM:						
Department of Lands Fund	$ 263,300	$ 41,000	$ 3,000			$ 307,300
GRAND TOTAL	$10,945,700	$7,694,900	$520,400	$234,500	$6,380,700	$25,776,200

SECTION 2. There is hereby reappropriated to the Department of Lands the unexpended and unencumbered balance of any funds previously appropriated for the Triumph Mine Remediation Project to be used for the same purpose for the period July 1, 1998, through June 30, 1999.

The reappropriation is limited to $150,700 in General Funds, $500,000 in Hazardous Waste Management Funds, and $499,300 in spending authority for money collected from other potentially responsible parties.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred thirty-eight and eighty-six hundredths (238.86) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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. Of the amounts appropriated in Section 1 of this act for the Support Services program from the Land Improvement Fund, $200,000 in operating expenditures and $12,000 in capital outlay shall be used for computer system programming and is hereby further appropriated to the Department of Lands for the period July 1, 1999, through June 30, 2000.

Approved March 24, 1998.

CHAPTER 322
(H.B. No. 816)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE PERSONNEL COMMISSION FOR FISCAL YEAR 1999; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Personnel Commission the following amounts, to be expended according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Personnel Commission Fund	$1,728,800	$642,900	$59,400	$2,431,100
Seminars and Publications Fund		57,300		57,300
TOTAL	$1,728,800	$700,200	$59,400	$2,488,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Personnel Commission is authorized no more than thirty-seven (37) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 24, 1998.

CHAPTER 323
(H.B. No. 817)

AN ACT

APPROPRIATING MONEYS FOR VOCATIONAL EDUCATION FOR FISCAL YEAR 1999; REAPPROPRIATING ANY 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 amounts, to be expended by the Division of Vocational Education for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. STATE LEADERSHIP AND TECHNICAL ASSISTANCE:						
FROM:						
General Fund	$1,502,700	$236,000	$30,100			$ 1,768,800
Federal Grant Fund	183,300	106,800				290,100
TOTAL	$1,686,000	$342,800	$30,100			$ 2,058,900
II. GENERAL PROGRAMS:						
FROM:						
General Fund	$ 204,800	$ 37,500	$ 6,300	$ 7,512,500		$ 7,761,100
Hazardous Materials/ Waste Enforcement Fund				66,800		66,800
Federal Grant Fund	202,700	15,100		3,917,700		4,135,500
TOTAL	$ 407,500	$ 52,600	$ 6,300	$11,497,000		$11,963,400
III. POSTSECONDARY PROGRAMS:						
FROM:						
General Fund					$26,355,300	$26,355,300
Unrestricted Current Fund					217,000	217,000
TOTAL					$26,572,300	$26,572,300
IV. UNDERPREPARED ADULTS/DISPLACED HOMEMAKERS:						
FROM:						
General Fund				$ 31,400		$ 31,400
Displaced Homemaker Fund				170,000		170,000
Federal Grant Fund				2,035,800		2,035,800
TOTAL				$ 2,237,200		$ 2,237,200
GRAND TOTAL	$2,093,500	$395,400	$36,400	$13,734,200	$26,572,300	$42,831,800

SECTION 2. There is hereby reappropriated to the State Board for Vocational Education for the Division of Vocational Education, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any General Fund appropriation contained in Section 1, Chapter 291, Laws of 1997, to be used for nonrecurring expenditures for the period July 1, 1998, through June 30, 1999.

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

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1998, is zero, the reappropriation in Section 2 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1998, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 2 of this act shall be in the proportion that the reappropriation for the Division of Vocational Education bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 24, 1998.

CHAPTER 324
(S.B. No. 1343, As Amended)

AN ACT

RELATING TO DRAWING CHECKS WITH INSUFFICIENT FUNDS; AMENDING SECTION 18-3106, IDAHO CODE, TO INCREASE THE DOLLAR AMOUNT BEFORE FELONY PENALTIES ATTACH AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING FOR APPLICATION OF THE ACT TO OFFENSES COMMITTED ON AND AFTER JULY 1, 1998.

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~~ willfully, 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~~ willfully, 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 two hundred fifty dollars ($250~~.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~~ willfully, 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 two hundred fifty dollars ($250~~.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 two hundred fifty dollars ($250.00) individually but in the aggregate total ~~one~~ two hundred fifty dollars ($~~1~~250) 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 defendant 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.

SECTION 2. The provisions of this act shall apply to violations of section 18-3016, Idaho Code, committed on and after July 1, 1998.

Approved March 24, 1998.

CHAPTER 325
(S.B. No. 1344, As Amended, As Amended)

AN ACT

RELATING TO DRIVING WITHOUT PRIVILEGES; AMENDING SECTION 18-8001, IDAHO CODE, TO AUTHORIZE THE COURT TO APPROVE ASSIGNMENT OF A DEFENDANT TO A WORK RELEASE PROGRAM DURING INCARCERATION, TO AUTHORIZE COMMUNITY SERVICE IN LIEU OF JAIL OR A COMBINATION OF COMMUNITY SERVICE AND INCARCERATION IF THE SUSPENSION RESULTING IN A VIOLATION OF THE SECTION DOES NOT ARISE FROM SPECIFIED OFFENSES, TO LIMIT THE PERIOD OF ABSOLUTE SUSPENSION FOR A SECOND OFFENSE AND TO PROVIDE FOR RESTRICTED DRIVING PRIVILEGES, TO PROVIDE THAT A THIRD OFFENSE IS A MISDEMEANOR, TO PROVIDE FOR A TERM OF IMPRISONMENT IN THE COUNTY JAIL FOR A THIRD OFFENSE, TO PROVIDE SENTENCING OPTIONS, TO LIMIT THE PERIOD OF ABSOLUTE SUSPENSION FOR A THIRD OFFENSE AND TO PROVIDE FOR RESTRICTED DRIVING PRIVILEGES, TO CORRECT A CODE REFERENCE, TO ADD CODE REFERENCES, TO SPECIFY THE OFFENSES WHICH WILL PREVENT A COURT FROM CONSIDERING ALTERNATIVE SENTENCING OPTIONS AND TO REQUIRE PROOF OF LIABILITY INSURANCE BEFORE RESTRICTED DRIVING PRIVILEGES MAY BE GRANTED; AND PROVIDING FOR APPLICATION OF THE ACT TO OFFENSES COMMITTED ON AND AFTER JULY 1, 1998.

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

SECTION 1. That Section 18-8001, Idaho Code, be, and the same is hereby amended to read as follows:

18-8001. DRIVING WITHOUT PRIVILEGES. (1) Any person who drives or is in actual physical control of any motor vehicle upon the highways of this state with knowledge that his driver's license, driving privileges or permit to drive is revoked, disqualified or suspended in this state or any other jurisdiction is guilty of a misdemeanor.

(2) A person has knowledge that his license, driving privileges or permit to drive is revoked, disqualified or suspended when:

(a) He has actual knowledge of the revocation, disqualification or suspension of his license, driving privileges or permit to drive; or

(b) He has received oral or written notice from a verified, authorized source, that his license, driving privileges or permit to drive was revoked, disqualified or suspended; or

(c) Notice of the suspension, disqualification or revocation of his license, driving privileges or permit to drive was mailed by certified mail to his address as shown on the citation which resulted in the suspension, disqualification or revocation, and if such notice was returned it was remailed to his address as shown in the department records, and he failed to receive the notice or learn of its contents as a result of his own unreasonable, intentional or negligent conduct; or

(d) He has knowledge of, or a reasonable person in his situation exercising reasonable diligence would have knowledge of, the existence of facts or circumstances which, under Idaho law, might have caused the revocation, disqualification or suspension of his license, driving privileges or permit to drive.

(3) Any person who pleads guilty to or is found guilty of a violation of subsection (1) for the first time:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than two (2) days, and may be sentenced to not more than six (6) months, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work release or work detail program within the custody of the county sheriff during the period of incarceration, or, if the underlying suspension that resulted in the violation of this section is not a suspension resulting from an offense identified in subsection (8) of this section, the judge may authorize an equivalent amount of community service in lieu of jail, or any equivalent combination of these options;

(b) May be fined an amount not to exceed five hundred dollars ($500); and

(c) Shall have his driving privileges suspended by the court for an additional six (6) months following the end of any period of suspension, disqualification or revocation existing at the time of the violation; the defendant may request restricted driving privileges during the period of the suspension or disqualification, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment, education or for family health needs.

(4) Any person who pleads guilty to or is found guilty of a violation of subsection (1) for a second time within five (5) years, irrespective of the form of the judgment(s) or withheld judgment(s):

(a) Shall be sentenced to jail for a mandatory minimum period of

not less than twenty (20) days, and may be sentenced to not more than one (1) year, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work release or work detail program within the custody of the county sheriff during the period of incarceration, or, if the underlying suspension that resulted in the violation of this section is not a suspension resulting from an offense identified in subsection (8) of this section, the judge may authorize an equivalent amount of community service in lieu of jail, or any equivalent combination of these options;

(b) May be fined an amount not to exceed one thousand dollars ($1,000); and

(c) Shall have his driving privileges suspended by the court for an additional one (1) year following the end of any period of suspension, disqualification or revocation existing at the time of the second violation, during the first thirty (30) days of which time he shall have absolutely no driving privileges of any kind. The defendant may request restricted driving privileges during the period of the suspension or disqualification, to begin after the period of absolute suspension, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment, education or for family health needs.

(5) Any person who has pled guilty to or been found guilty of more than two (2) violations of the provisions of subsection (1) of this section within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), is guilty of a ~~felony~~ misdemeanor; and

(a) Shall be sentenced to the ~~custody-of-the-state-board-of-correction-for-not-to-exceed-three-(3)-years;-provided-that--notwithstanding-the-provisions-of-section-19-2601,-Idaho-Code,-should-the court--impose--any--sentence-other-than-incarceration-in-the-state penitentiary,-the-defendant-shall-be-sentenced-to-the~~ county jail for a mandatory minimum period of not less than thirty (30) days, and may be sentenced to not more than one (1) year; ~~and--further~~ provided, ~~that--notwithstanding-the-provisions-of-section-18-111, Idaho-Code,-a-conviction-under-this-section-shall-be-deemed-a-felony~~ however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work release or work detail program within the custody of the county sheriff during the period of incarceration, or, if the underlying suspension that resulted in the violation of this section is not a suspension resulting from an offense identified in subsection (8) of this section, the judge may authorize an equivalent amount of community service in lieu of jail, or any equivalent combination of these options;

(b) May be fined an amount not to exceed three thousand dollars ($3,000); and

(c) Shall have his driving privileges suspended by the court for an additional ~~three~~ two (~~3~~2) years following the end of any period of suspension, disqualification or revocation existing at the time of the violation, during the first ninety (90) days of which time he shall have absolutely no driving privileges of any kind. The

defendant may request restricted driving privileges during the period of the suspension or disqualification, to begin after the period of absolute suspension, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment, education or for family health needs.

(6) A minor may be prosecuted for a violation of subsection (1) of this section under chapter 5, title ~~16~~20, Idaho Code.

(7) If a person is convicted for a violation of section 18-8004, 18-8004C or 18-8006, Idaho Code, and at the time of arrest had no driving privileges, the penalties imposed by this section shall be in addition to any penalties imposed under the provisions of section 18-8005, 18-8004A, 18-8004C or 18-8006, Idaho Code, and not in lieu thereof.

(8) For purposes of this section, the offenses referred to in subsections (3)(a), (4)(a) and (5)(a) of this section are:

(a) Section 18-1501(3), Idaho Code, transporting a minor in a motor vehicle while under the influence;

(b) Section 18-4006(3), Idaho Code, vehicular manslaughter;

(c) Section 18-8001, Idaho Code, driving without privileges;

(d) Section 18-8004, Idaho Code, driving under the influence of alcohol, drugs or other intoxicating substances;

(e) Section 18-8004C, Idaho Code, excessive alcohol concentration;

(f) Section 18-8006, Idaho Code, aggravated driving while under the influence of alcohol, drugs or any other intoxicating substances;

(g) Section 18-8007, Idaho Code, leaving the scene of an accident resulting in injury or death;

(h) Section 49-1229, Idaho Code, required motor vehicle insurance;

(i) Section 49-1232, Idaho Code, certificate or proof of liability insurance to be carried in motor vehicle;

(j) Section 49-1401, Idaho Code, reckless driving;

(k) Section 49-1404, Idaho Code, eluding a police officer;

(l) Section 49-1428, Idaho Code, operating a vehicle without liability insurance;

or any substantially conforming foreign criminal violation.

(9) In no event shall a person be granted restricted driving privileges unless the person shows proof of liability insurance or other proof of financial responsibility, as provided in chapter 12, title 49, Idaho Code.

SECTION 2. The provisions of this act shall apply to violations of section 18-8001, Idaho Code, committed on and after July 1, 1998.

Approved March 24, 1998.

CHAPTER 326
(S.B. No. 1342, As Amended)

AN ACT

RELATING TO GRADINGS OF THEFT; AMENDING SECTION 18-2407, IDAHO CODE, TO INCREASE THE DOLLAR AMOUNT THRESHOLD IN CERTAIN INSTANCES TO ONE THOUSAND DOLLARS FOR A PERSON TO BE GUILTY OF GRAND THEFT AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING FOR APPLICATION OF THE ACT TO OFFENSES COMMITTED ON AND AFTER JULY 1, 1998.

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

SECTION 1. That Section 18-2407, Idaho Code, be, and the same is hereby amended to read as follows:

18-2407. GRADING OF THEFT. Theft is divided into two (2) degrees, grand theft and petit theft.

(1) Grand theft.

(a) A person is guilty of grand theft when he commits a theft as defined in this chapter and when the property, regardless of its nature and value, is obtained by extortion committed by instilling in the victim a fear that the actor or another person will:

1. Cause physical injury to some person in the future; or
2. Cause damage to property; or
3. Use or abuse his position as a public servant by engaging in conduct within or related to his official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

(b) A person is guilty of grand theft when he commits a theft as defined in this chapter and when:

1. The value of the property taken exceeds ~~three-hundred~~ one thousand dollars ($~~3~~1,000); or
2. The property consists of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant; or
3. The property consists of a credit card; or
4. The property, regardless of its nature or value, is taken from the person of another; or
5. The property, regardless of its nature and value, is obtained by extortion; or
6. The property consists of one (1) or more firearms, rifles or shotguns; or
7. The property taken or deliberately killed is livestock or any other animal exceeding one hundred fifty dollars ($150) in value.
8. When any series of thefts, comprised of individual thefts having a value of ~~three--hundred~~ one thousand dollars ($~~3~~1,000) or less, are part of a common scheme or plan, the thefts may be aggregated in one (1) count and the sum of the value of all of the thefts shall be the value considered in determining whether the value exceeds ~~three-hundred~~ one thousand dollars ($~~3~~1,000).

(2) Petit theft. A person is guilty of petit theft when he commits a theft as defined in this chapter and his actions do not constitute grand theft.

SECTION 2. The provisions of this act shall apply to violations of section 18-2407, Idaho Code, committed on and after July 1, 1998.

Approved March 24, 1998.

CHAPTER 327
(S.B. No. 1341)

AN ACT

RELATING TO PAROLE; AMENDING SECTION 20-223, IDAHO CODE, TO REVISE CONDITIONS AND PROCEDURES REGARDING PAROLE AND TO HOLD HARMLESS THE COMMISSION OF PARDONS AND PAROLE OR ITS MEMBERS IN CONNECTION WITH ANY DECISION TAKEN BY THE COMMISSION TO PAROLE A PRISONER; AMENDING SECTION 20-228, IDAHO CODE, TO AUTHORIZE THE COMMISSION OF PARDONS AND PAROLE, IN ITS DISCRETION, TO ALLOW TIME ON PAROLE TO BE COUNTED AS PART OF A RECOMMITTED PRISONER'S SENTENCE; AND AMENDING SECTION 6-904B, IDAHO CODE, TO PROVIDE THAT A DECISION OF THE STATE COMMISSION OF PARDONS AND PAROLE OR ITS EXECUTIVE DIRECTOR, WHEN CARRYING OUT THE BUSINESS OF THE COMMISSION, SHALL BE EXEMPT FROM CLAIM UNLESS THAT ACTION WAS DONE WITH MALICE OR CRIMINAL INTENT OR WITH GROSS NEGLIGENT OR RECKLESS, WILLFUL AND WANTON CONDUCT AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 20-223, Idaho Code, be, and the same is hereby amended to read as follows:

20-223. PAROLE, RULES AND REGULATIONS GOVERNING -- RESTRICTIONS -- PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION. (a) Subject to section 19-2513, Idaho Code, the commission shall have the power to establish rules, regulations, policies or procedures in compliance with chapter 52, title 67, Idaho Code, under which any prisoner, excepting any under sentence of death, may be allowed to go upon parole but to remain while on parole in the legal custody and under the control of the board and subject to be taken back into confinement at the direction of the commission.

(b) No person serving a sentence for rape, incest, committing a lewd act upon a child, crime against nature, or with an intent or an assault with intent to commit any of the said crimes or whose history and conduct indicate to the commission that he is a sexually dangerous person, shall be released on parole except upon the examination and evaluation of one (1) or more psychiatrists or psychologists to be selected by the commission and such evaluation shall be duly considered by the commission in making its parole determination. The commission may, in its discretion, likewise require a similar examination and evaluation for persons serving sentences for crimes other than

those above enumerated. No psychiatrist or psychologist making such evaluation shall be held financially responsible to any person for denial of parole by the commission or for the results of the future acts of such person if he be granted parole.

(c) Before considering the parole of any prisoner, the commission shall afford the prisoner the opportunity to be interviewed by the commission, a commissioner or other designated commission staff. A parole shall be ordered ~~only for the best interests of society when the commission reasonably believes that the prisoner no longer poses a threat to the safety of society,~~ when, in the discretion of the commission, it is in the best interests of society, and the commission believes the prisoner is able and willing to fulfill the obligations of a law-abiding citizen. Such determination shall not ~~as~~ be a reward of clemency and it shall not be considered to be a reduction of sentence or a pardon. ~~A prisoner shall be placed on parole only when arrangements have been made for his employment or maintenance and care, and when the commission believes the prisoner is able and willing to fulfill the obligations of a law-abiding citizen.~~ The commission may also by its rules, regulations, policies or procedures fix the times and conditions under which any application denied may be reconsidered. No action may be maintained against the commission and/or any of its members in any court in connection with any decision taken by the commission to parole a prisoner and neither the commission nor its members shall be liable in any way for its action with respect thereto.

(d) In making any parole or commutation decision with respect to a prisoner, the commission shall consider the compliance of the prisoner with any order of restitution which may have been entered according to section 19-5304, Idaho Code. The commission may make compliance with such an order of restitution a condition of parole.

(e) Except as provided in subsection (a) of this section, no provision of chapter 52, title 67, Idaho Code, shall apply to the commission.

(f) Subject to the limitations of this subsection and notwithstanding any fixed term of confinement or minimum period of confinement as provided in section 19-2513, Idaho Code, the commission may parole an inmate for medical reasons. A prisoner may be considered for medical parole only when the prisoner is permanently incapacitated or terminally ill and when the commission reasonably believes the prisoner no longer poses a threat to the safety of society. For the purposes of this section "permanently incapacitated" shall mean a person who, by reason of an existing physical condition which is not terminal, is permanently and irreversibly physically incapacitated. For the purposes of this section "terminally ill" shall mean a person who has an incurable condition caused by illness or disease and who is irreversibly terminally ill.

(g) The commission shall prepare and send to the house and senate judiciary committees annually a report containing the names, medical condition and current status of all persons granted parole pursuant to subsection (f) of this section.

SECTION 2. That Section 20-228, Idaho Code, be, and the same is hereby amended to read as follows:

20-228. CONDITIONS OF PAROLE TO BE SPECIFIED IN WRITING -- WARRANT FOR ARREST OF SUSPECTED VIOLATORS -- EFFECT OF SUSPENSION AND ARREST. The commission for pardons and parole, in releasing a person on parole, shall specify in writing the conditions of parole, and a copy of such conditions shall be given to the person paroled. Whenever the commission finds that a parolee may have violated the conditions of parole, the written order of the commission, signed by a member or members of the commission or the executive director, shall be sufficient warrant for any law enforcement officer to take into custody such person, and it is hereby made the duty of all sheriffs, police, constables, parole and probation officers, prison officials and other peace officers, to execute such order. Such warrant shall serve to suspend the person's parole until a determination on the merits of the allegations of the violation has been made pursuant to a revocation hearing. From and after the issuance of the warrant and suspension of the parole of any convicted person and until arrest, the parolee shall be considered a fugitive from justice. Such person so recommitted must serve out the sentence, and the time during which such prisoner was out on parole shall not be deemed a part thereof; unless the commission, in its discretion, shall determine otherwise, but nothing herein contained shall prevent the commission from again paroling such prisoners at its discretion.

SECTION 3. That Section 6-904B, Idaho Code, be, and the same is hereby amended to read as follows:

6-904B. EXCEPTIONS TO GOVERNMENTAL LIABILITY. A governmental entity and its employees while acting within the course and scope of their employment and without malice or criminal intent and without gross negligence or reckless, willful and wanton conduct as defined in section 6-904C, Idaho Code, shall not be liable for any claim which:

1. Arises out of the detention of any goods or merchandise by any law enforcement officer.

2. Arises out of the cancellation or ~~recision~~ rescission, or the failure to cancel or rescind, any motor vehicle registration and license plates for failure of the owner to verify or maintain motor vehicle liability insurance coverage.

3. Arises out of the issuance, denial, suspension or revocation of, or failure or refusal to issue, deny, suspend, or revoke a permit, license, certificate, approval, order or similar authorization.

4. Arises out of the failure to make an inspection, or the making of an inadequate inspection of any property, real or personal, other than the property of the governmental entity performing the inspection.

5. Arises out of any act or omission providing or failing to provide medical care to a prisoner, inmate or person in the custody of any city, county or state jail, detention center or correctional facility.

6. Arises out of a decision of the state commission of pardons and parole or its executive director when carrying out the business of the commission.

Approved March 24, 1998.

CHAPTER 328
(S.B. No. 1422, As Amended)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2707, IDAHO CODE, TO INCLUDE PHENYLPROPANOLAMINE AS AN IMMEDIATE PRECURSOR TO AMPHETAMINES, AND METHAMPHETAMINES, TO PROVIDE THAT PHENYLPROPANOLAMINE OR ITS SALTS AND ISOMERS WHICH IS PREPARED FOR DISPENSING OR OVER-THE-COUNTER DISTRIBUTION IS NOT A CONTROLLED SUBSTANCE UNLESS THE SUBSTANCE IS POSSESSED, DELIVERED, OR POSSESSED WITH INTENT TO DELIVER TO ANOTHER, WITH THE INTENT TO MANUFACTURE METHAMPHETAMINE, AMPHETAMINE OR OTHER CONTROLLED SUBSTANCE IN VIOLATION OF SECTION 37-2732, IDAHO CODE, AND TO PROVIDE THAT THE REQUIREMENTS OF THE UNIFORM CONTROLLED SUBSTANCES ACT SHALL NOT APPLY TO A MANUFACTURER, WHOLESALER OR RETAILER OF OVER-THE-COUNTER PRODUCTS CONTAINING CERTAIN LISTED SUBSTANCES UNLESS THE PERSON POSSESSES, DELIVERS, OR POSSESSES WITH INTENT TO DELIVER TO ANOTHER THE OVER-THE-COUNTER PRODUCT WITH INTENT TO MANUFACTURE A CONTROLLED SUBSTANCE.

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

SECTION 1. That Section 37-2707, Idaho Code, be, and the same is hereby amended to read as follows:

37-2707. SCHEDULE II. (a) Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, naltrexone and their respective salts, but including the following:

1. Raw opium;
2. Opium extracts;
3. Opium fluid extracts;
4. Powdered opium;
5. Granulated opium;
6. Tincture of opium;
7. Codeine;
8. Ethylmorphine;
9. Etorphine hydrochloride;
10. Hydrocodone;
11. Hydromorphone;
12. Metopon;
13. Morphine;
14. Oxycodone;

15. Oxymorphone;
16. Thebaine.

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b) (1) of this section, except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Methylbenzoylecgonine (Cocaine - its salts, optical isomers, and salts of optical isomers).

(6) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, unless specifically excepted or unless listed in another schedule:

(1) Alfentanil;
(2) Alphaprodine;
(3) Anileridine;
(4) Bezitramide;
(5) Bulk Dextropropoxyphene (nondosage forms);
(6) Carfentanil;
(7) Dihydrocodeine;
(8) Diphenoxylate;
(9) Fentanyl;
(10) Isomethadone;
(11) Levo-alphacetylmethadol (also known as levo-alpha-acetylmethadol, levomethadyl acetate, LAAM);
(12) Levomethorphan;
(13) Levorphanol;
(14) Metazocine;
(15) Methadone;
(16) Methadone -- Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
(17) Moramide -- Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl propane-carboxylic acid;
(18) Pethidine (meperidine);
(19) Pethidine--Intermediate--A, 4-cyano-1-methyl-4-phenyl-piperidine;
(20) Pethidine--Intermediate--B, ethyl-4-phenylpiperidine-4-carboxylate;
(21) Pethidine--Intermediate--C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
(22) Phenazocine;
(23) Piminodine;
(24) Racemethorphan;

(25) Racemorphan;

(26) Sufentanil.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) Methamphetamine, its salts, isomers, and salts of its isomers;

(3) Phenmetrazine and its salts;

(4) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital;

(2) Glutethimide;

(3) Pentobarbital;

(4) Phencyclidine;

(5) Secobarbital.

(f) Hallucinogenic substances.

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product (21 C.F.R. 1308.12 (f)).

(2) Nabiline .....(another name for nabilone: (+)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo(b,d)pyran-9-one) (21 C.F.R. 1308.12 (f)).

(g) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(a) Anthranilic acid

(b) Ephedrine

(c) Lead acetate

(d) Methylamine

(e) Methyl formamide

(f) N-methylephedrine

(g) Phenylacetic acid

(h) Phenylacetone

(i) Phenylpropanolamine

(~~i~~j) Pseudoephedrine.

Except that any combination or compound containing ephedrine, or any of its salts and isomers, or phenylpropanolamine or its salts and isomers, or pseudoephedrine, or any of its salts and isomers which is prepared for dispensing or over-the-counter distribution is not a controlled substance for the purpose of this section, unless such substance is possessed, delivered, or possessed with intent to deliver to another with the intent to manufacture methamphetamine, amphetamine or

any other controlled substance in violation of section 37-2732, Idaho Code. For purposes of this provision, the requirements of the uniform controlled substances act shall not apply to a manufacturer, wholesaler or retailer of over-the-counter products containing the listed substances unless such person possesses, delivers, or possesses with intent to deliver to another the over-the-counter product with intent to manufacture a controlled substance.

(2) Immediate precursors to phencyclidine (PCP):

(a) 1-phenylcyclohexylamine;

(b) 1-piperidinocyclohexanecarbonitrile (PCC).

Approved March 24, 1998.

CHAPTER 329
(S.B. No. 1365, As Amended)

AN ACT

RELATING TO PURPLE HEART RECIPIENTS; AMENDING SECTION 49-403A, IDAHO CODE, TO ALLOW THE SPOUSE OF A DECEASED PURPLE HEART RECIPIENT TO RETAIN AND DISPLAY PURPLE HEART LICENSE PLATES 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 49-403A, Idaho Code, be, and the same is hereby amended to read as follows:

49-403A. PURPLE HEART RECIPIENT -- LICENSE PLATES. (1) Purple heart recipient license plates are available to any applicant who is a veteran or an active or retired member of any of the armed forces of the United States, reserve forces or Idaho national guard, and who furnishes proof of entitlement by providing one (1) of the following documents:

(a) A copy of form DD214 or equivalent document showing an award of the purple heart medal;

(b) A copy of the certificate presented with the medal; or

(c) A copy of the military order describing the award of the medal to the applicant.

(2) In addition to the regular registration fee, the applicant shall be charged the plate fee required in section 49-450, Idaho Code. Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the registration shall expire, but the purple heart recipient may transfer his plates to another vehicle upon payment of the required transfer fees. He may only display the plates after receipt of new registration from the department. A purple heart recipient shall not register more than two (2) vehicles under the provisions of this section.

(3) Purple heart recipient license plates may be retained and displayed on vehicles owned by the surviving spouse of a deceased purple heart recipient.

(4) The purple heart recipient license plates shall be of a color

and design acceptable to the military order of the purple heart association and approved by the department, utilizing a numbering system as determined by the department.

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 24, 1998.

CHAPTER 330
(S.B. No. 1515, As Amended)

AN ACT

RELATING TO THE PERSONNEL COMMISSION; AMENDING SECTION 67-5307, IDAHO CODE, TO PROVIDE THAT THE CHAIRMAN OF THE PERSONNEL COMMISSION SHALL BE APPOINTED BY THE GOVERNOR PRIOR TO THE COMMISSION'S FIRST MEETING OF EACH CALENDAR YEAR; AND AMENDING SECTION 67-5308, IDAHO CODE, TO PROVIDE THAT A PERSONNEL DIRECTOR SHALL BE APPOINTED WITH THE WRITTEN APPROVAL OF THE GOVERNOR 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 67-5307, Idaho Code, be, and the same is hereby amended to read as follows:

67-5307. ORGANIZATION OF COMMISSION. (1) The Idaho personnel commission created by this act shall consist of five (5) members, not more than three (3) of which at any time may belong to the same political party. The members of the commission shall be appointed by the governor on the basis of experience in personnel management, business or governmental management and their known sympathy with merit principles for the impartial selection of efficient state government employees; provided, however, that at least two (2) of the members shall have had at least five (5) years of personnel management experience.

(2) Members of the commission shall be appointed for overlapping terms of six (6) years, except that in the first instance one (1) member shall be appointed for two (2) years, one (1) member for four (4) years and one (1) member for six (6) years. Initial members shall be appointed to take office within thirty (30) days after the effective date of this act. The members of the personnel commission serving on the effective date of this act shall continue in office subject to the provisions of this act. The additional members of the commission shall be appointed one (1) for four (4) years and one (1) for six (6) years, the term of each to be designated by the governor. Their successors shall be appointed for terms of six (6) years. If, for any reason, a member should leave the commission before his term expires, the governor shall appoint another member to fill out the unexpired term.

(3) No member of the commission shall hold political office or be an officer of a political organization during his term, nor shall any

member have held political office or have been an officer of a political organization during the twelve (12) months preceding his appointment. No member of the commission shall have been employed as an official or employee of the state of Idaho during the twelve (12) months preceding his appointment, nor be so employed during his term. ~~At--its first--meeting--the--commission--shall-elect-one-(1)-of-the-members-as chairman.--Thereafter,-t~~The chairman shall be ~~elected-during~~ appointed by the governor prior to the first meeting of each calendar year.

(4) Any department aggrieved by any action or inaction of the commission shall be afforded an opportunity for a hearing before the commission upon request therefor in writing. Minutes or summary of the proceedings of all hearings shall be made and filed with the commission, together with findings of fact and conclusions of law made by the commission.

(5) The governor may remove a commissioner for inefficiency, neglect of duty or misconduct in office after first giving him a copy of charges against him and an opportunity to be heard publicly before the governor. A copy of the charges and a transcript of the record of the hearing shall be filed with the secretary of state.

(6) The commission shall meet at regularly scheduled intervals or on call of the chairman. Three (3) members shall constitute a quorum for the transaction of business. Members shall each be compensated as provided by section 59-509(n), Idaho Code.

SECTION 2. That Section 67-5308, Idaho Code, be, and the same is hereby amended to read as follows:

67-5308. AUTHORITY AND DUTIES OF THE PERSONNEL COMMISSION -- SELECTION OF PERSONNEL DIRECTOR. (1) It shall be the duty of the Idaho personnel commission to administer this act. The commission shall have the duty, power and authority to employ such persons, make such expenditures, require such reports, make investigations, perform such travel pursuant to the provisions of this act, and to take such other actions as it deems necessary or suitable to that end.

(2) A personnel director shall be appointed by the commission, with the written approval of the governor, from a register of eligibles established from an unassembled examination pursuant to section 67-5309, Idaho Code, who shall be experienced in personnel administration, and who shall be the executive secretary and administrative officer of the commission.

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 25, 1998.

CHAPTER 331
(S.B. No. 1497)

AN ACT

RELATING TO THE TELEPHONE SOLICITATION ACT; AMENDING SECTION 48-1002, IDAHO CODE, TO INCLUDE A DEFINITION OF THE TERM "UNSOLICITED ADVERTISEMENTS" AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 48-1002, Idaho Code, be, and the same is hereby amended to read as follows:

48-1002. DEFINITIONS. In this chapter:

(1) "Business days" means all days of the week except Saturdays and Sundays and all other legal holidays as defined in section 73-108, Idaho Code.

(2) "Conducting business" means making telephone solicitations either to or from locations within the state of Idaho.

(3) "Goods" means any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value.

(4) "Minor" means any person less than eighteen (18) years of age.

(5) "Newspaper of general circulation" means a newspaper which holds a second class mailing permit from the United States postal service, has at least two hundred (200) subscribers, is made up of at least four (4) pages of at least five (5) columns, is not produced through any type of mimeographing process, and has been published or distributed within the state of Idaho on a weekly basis for at least seventy-eight (78) consecutive weeks, or on a daily basis, which is defined to be no less than five (5) days of any one (1) week, at least twelve (12) months immediately preceding any telephone solicitation done by or on behalf of such newspaper.

(6) "Person" means natural persons, partnerships, both limited and general, corporations, both foreign and domestic, companies, trusts, business entities, associations, both incorporated and unincorporated, and any other legal entity or any group associated in fact although not a legal entity, or any agent, assign, heir, servant, employee or representative thereof.

(7) "Purchaser" means a person who is solicited to become or does become obligated to a telephone solicitor.

(8) "Services" means any work, labor, help, assistance or instruction wherever provided or performed.

(9) "Telephone directory of general circulation" means a directory containing telephone numbers of individual residents and/or businesses which is published on a community-wide or regional basis and which is widely available to persons residing in such community or region through free distribution or direct purchase of said directory without the requirement of other purchases or affiliations.

(10) "Telephone solicitation" means:

(a) Any unsolicited telephone call or facsimile transmission to a

purchaser for the purpose of asking, inducing, inviting, requesting, or encouraging the purchaser to purchase or invest in goods or services; or

(b) Any communication in which:

(i) A free gift, award, or prize is offered, or in which it is represented or implied that goods or services are offered below the regular price of the goods or services; and

(ii) A return telephone call is invited or the communication is followed up by a call to the purchaser by the telephone solicitor; and

(iii) It is intended during the course of the return or follow-up call with the purchaser that an agreement to purchase, or a purchase be made.

(c) For purposes of this subsection, "communication" means a written or oral statement or notification or advertisement transmitted to the purchaser through any means.

(11) "Telephone solicitor" means any person who, on his own behalf or through other persons or through use of an automatic dialing-announcing device, engages in a telephone solicitation.

(12) "Unsolicited advertisement" means any advertisement offering goods or services which is transmitted to any person without that person's prior express invitation or permission unless an established business relationship exists between the sender and recipient which has not been terminated by either party.

(13) "Written confirmation" means a writing that includes the following information: the date of purchase, the telephone solicitor's complete address and registration number, a listing of all goods and/or services purchased, a listing of the price of each good and/or service purchased, the total obligation incurred by the purchaser, and the notice of cancellation as set forth in subsection (2) of section 48-1004, Idaho Code.

Approved March 25, 1998.

CHAPTER 332
(S.B. No. 1439, As Amended)

AN ACT

RELATING TO WATER RIGHTS DESCRIPTIONS AND IRRIGATION PROJECTS; AMENDING SECTION 42-217, IDAHO CODE, TO PROVIDE FOR GENERAL DESCRIPTIONS OF THE PLACE OF USE WHEN AN IRRIGATION PROJECT IS DEVELOPED IN THE NAME OF AN ASSOCIATION, COMPANY, CORPORATION, IRRIGATION DISTRICT OR THE UNITED STATES; AMENDING SECTION 42-219, IDAHO CODE, TO PROVIDE THAT FOR CERTAIN IRRIGATION PROJECTS DIVERTING SURFACE WATER FOR USE BY MORE THAN FIVE WATER USERS IN AN AREA LESS THAN TWENTY-FIVE THOUSAND ACRES THE LICENSE SHALL BE ISSUED TO THE PERMIT HOLDER AND TO PROVIDE FOR A GENERAL DESCRIPTION OF THE AREA, TO PROVIDE THAT NO APPLICATION FOR CHANGE IN PLACE OF USE IS REQUIRED WITH CERTAIN IRRIGATION PROJECTS AND PROVIDING LIMITATIONS; AMENDING SECTION 43-323, IDAHO CODE, TO PROVIDE FOR SUBMISSION OF PLACE OF USE DESCRIPTIONS IN MAP FORM TO THE DEPART-

MENT OF WATER RESOURCES; AMENDING SECTION 43-324, IDAHO CODE, TO DELETE THE REQUIREMENT THAT IRRIGATION DISTRICTS FILE A CERTIFIED STATEMENT OF FINANCIAL CONDITION WITH THE DEPARTMENT OF WATER RESOURCES; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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.
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 an irrigation ~~systems--cover more--than-twenty-five-thousand-(25,000)-acres~~ project is developed in the name of an association, company, corporation, irrigation district or the United States as provided in section 42-219, Idaho Code, proof of beneficial use ~~may~~ shall be made by the ~~persons,-company-or--corporation-constructing-the-irrigation-works-on-behalf-of-the-project,-and in-such-cases,~~ permit holder. ~~T~~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~~ as provided in section 42-219, Idaho Code, and it shall only be necessary to show in

such cases that the quantity of water beneficially applied for 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 2. 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 anticipated 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.

(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 the water is taken, and to which the right relates, provided there has been no loss of priority under the provisions of this chapter. 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, the proof shall be taken, if received by the department within the sixty (60) days prescribed in the preceding section. If the proof taken is satisfactory to the department of water resources, a license shall be issued by the department the same as though proof had been made before the date fixed for such beneficial application. The priority of the right established by the proof shall not date back to the date of the application for the permit to which the right would relate under the provisions of this chapter, but shall bear a date which shall be subsequent to the date of the application, a time equal to the difference between the date set in the permit, or extension thereof, for such beneficial application of water and the date of proof.

(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. 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. 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) For an irrigation project developed under a permit held by an association, company, corporation or the United States to divert and deliver or distribute surface water under any annual charge or rental for beneficial use by more than five (5) water users in an area of less than twenty-five thousand (25,000) acres, the license issued shall be issued to the permit holder. For the place of use description in the license issued for the irrigation project, it shall be sufficient to provide a general description of the area within which the total number of acres developed under the permit are located and within which the location of the licensed acreage can be moved provided there is no injury to other water rights.

(7) Subject to other governing law, the location of the acreage irrigated within a generally described place of use, as defined in accordance with subsections (5) and (6) of this section and as filed with the department pursuant to section 43-323, Idaho Code, may be changed without approval under the provisions of section 42-222, Idaho Code. However, the change shall not result in an increase in either the rate of flow diverted or in the total number of acres irrigated under the water right and shall cause no injury to other water rights. If the holder of any water right seeks to challenge such a change, the challenge may only be brought as an action initiating a contested case before the department, pursuant to the administrative procedure act,

chapter 52, title 67, Idaho Code. Nothing in this section shall be construed to grant, deny or otherwise affect an irrigation district's authority to deliver water to areas outside the boundaries of such district.

(8) 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 3. That Section 43-323, Idaho Code, be, and the same is hereby amended to read as follows:

43-323. REPORT TO DEPARTMENT OF WATER RESOURCES. (1) At least as often as once a year after organization, the board of directors shall make a report to the department of water resources of the condition of the work of construction, as to capacity, stability and permanency, and whether or not the plan of irrigation formulated under the provisions of this title is being successfully carried out, and whether or not in the opinion of the board the funds available will complete the proposed works. Upon the receipt of such report by the department, it shall make such suggestions and recommendations to such board of directors as it may deem advisable for the best interest of the district.

(2) A change in the generally described place of use for a water right held by an irrigation district may be made without applying for a change under the provisions of section 42-222, Idaho Code, provided the district files with the department of water resources a map portraying the changes to the generally described place of use within which the district's water rights shall be exercised. For this filing requirement, it shall be sufficient to provide a drawing on a seven-and-one-half-minute (7-1/2) quadrangle map having a scale of one to twenty-four thousand (1:24,000) which shows the changes to the outer limits of the boundaries of the irrigation district to include each quarter-quarter section within which irrigation occurs. This map showing changes to the generally described place of use shall be filed with the department no later than April 1 of the year following the changes. Notwithstanding the filing of such map, only the legal description of an irrigation district's boundaries recorded in compliance with title 43, Idaho Code, shall constitute conclusive proof of the district's boundaries for purposes other than defining the generally described place of use for a water right held by the district.

SECTION 4. That Section 43-324, Idaho Code, be, and the same is hereby amended to read as follows:

43-324. STATEMENT OF FINANCIAL CONDITION. On or before the second Tuesday of February of each year the board of directors of each irrigation district organized under this title shall publish in at least one (1) issue of some newspaper published in the county or counties in which such district is situated, a full, true and correct statement of

the financial condition of said district, at the end of the last preceding fiscal year, giving all liabilities and assets of the said district, in a form to be prescribed by the bureau of public accounts of the state of Idaho. ~~and shall file a certified copy of such financial statement with the department of water resources of the state of Idaho.~~

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 25, 1998.

CHAPTER 333
(S.B. No. 1434, As Amended)

AN ACT

RELATING TO WARRANTIES FOR NEW MOTOR VEHICLES; REPEALING CHAPTER 9, TITLE 48, IDAHO CODE; AMENDING TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 9, TITLE 48, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE A MANUFACTURER'S DUTY TO REPAIR, TO PROVIDE A MANUFACTURER'S DUTY TO REFUND OR REPLACE, TO PROVIDE A MANUFACTURER'S DUTY TO CONSUMERS WITH LEASED VEHICLES, TO PROVIDE FOR RESALE OR RE-LEASE OF RETURNED MOTOR VEHICLES, TO PROVIDE FOR AN ALTERNATIVE DISPUTE SETTLEMENT MECHANISM, TO PROVIDE FOR EFFECT AND ADMISSIBILITY OF INFORMAL DISPUTE SETTLEMENT MECHANISM, TO PROVIDE FOR TREBLE DAMAGES, TO PROVIDE FOR CIVIL REMEDIES, TO PROVIDE FOR LIMITATIONS ON ACTIONS, TO PROVIDE THAT THE REMEDY SHALL BE NONEXCLUSIVE, TO PROVIDE A DISCLOSURE REQUIREMENT AND TO PROVIDE FOR DEALER LIABILITY.

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

SECTION 1. That Chapter 9, 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 9, Title 48, Idaho Code, and to read as follows:

CHAPTER 9
NEW MOTOR VEHICLE WARRANTIES -- MANUFACTURER'S DUTY TO REPAIR, REFUND OR REPLACE

48-901. DEFINITIONS. For purposes of this chapter, the following terms have the following meanings:

(1) "Consumer" means the purchaser or lessee, other than for purposes of resale or sublease, of a new motor vehicle used for personal business use, personal, family or household purposes, or a person to whom the new motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the motor vehicle.

(2) "Early termination costs" means expenses and obligations incurred by a motor vehicle lessor as a result of an early termination of a written lease agreement and surrender of a motor vehicle to a manufacturer under section 48-904, Idaho Code, including penalties for prepayment of finance arrangements.

(3) "Informal dispute settlement mechanism" means an arbitration process or procedure by which the manufacturer attempts to resolve disputes with consumers regarding motor vehicle nonconformities and repairs that arise during the vehicle's warranty period.

(4) "Lease" means a contract in the form of a lease or bailment for the use of personal property by a natural person for a period of time exceeding four (4) months, used for personal business use, personal, family, or household purposes, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease.

(5) "Manufacturer" means a person engaged in the business of manufacturing, assembling or distributing motor vehicles, who will, under normal business conditions during the year, manufacture, assemble or distribute to dealers at least ten (10) new motor vehicles.

(6) "Manufacturer's express warranty" and "warranty" mean the written warranty of the manufacturer of a new motor vehicle of its condition and fitness for use, including any terms or conditions precedent to the enforcement of obligations under that warranty.

(7) "Motor vehicle" means a motor vehicle as defined in chapter 1, title 49, Idaho Code, which is sold or licensed in this state but does not include:

(a) Motorcycle or farm tractor as defined in sections 49-107 and 49-114, Idaho Code; or

(b) Trailer as defined in section 49-121, Idaho Code; or

(c) Any motor vehicle with a gross laden weight over twelve thousand (12,000) pounds.

(8) "Motor vehicle lessor" means a person who holds title to a motor vehicle leased to a lessee under a written lease agreement or who holds the lessor's rights under such agreement.

48-902. MANUFACTURER'S DUTY TO REPAIR. If a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent, or its authorized dealer during the term of the applicable express warranties or during the period of two (2) years following the date of original delivery of the new motor vehicle to a consumer, or during the period ending with the date on which the mileage on the motor vehicle reaches twenty-four thousand (24,000) miles, whichever is the earliest date, the manufacturer, its agent, or its authorized dealer shall make the repairs necessary to conform the vehicle to the applicable express warranties, notwithstanding the fact that the repairs are made after the expiration of the warranty term or the two (2) year period.

48-903. MANUFACTURER'S DUTY TO REFUND OR REPLACE. (1) If the manufacturer, its agents, or its authorized dealers are unable to conform the new motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which impairs the use or market value of the motor vehicle to the consumer after a reasonable number

of attempts, the manufacturer shall either replace the new motor vehicle with a comparable motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the amount the consumer paid for the vehicle, inclusive of the value of any trade-in, not to exceed one hundred five percent (105%) of the manufacturer's suggested retail price of the motor vehicle. The manufacturer's suggested retail price shall include all manufacturer installed options. The one hundred five percent (105%) cap shall include the cost of any options or other modifications arranged, installed, or made by the manufacturer's agent, or its authorized dealer within thirty (30) days after the date of original delivery. The manufacturer shall refund to the consumer all other charges including, but not limited to, sales or excise tax, license fees and registration fees, reimbursement for towing and rental vehicle expenses incurred by the consumer as a result of the vehicle being out of service for warranty repair. A reasonable allowance for the consumer's use of the vehicle shall be deducted from the refund to the consumer not to exceed the number of miles attributable to the consumer up to the date of the arbitration hearing multiplied by the purchase price of the vehicle and divided by one hundred thousand (100,000). If the manufacturer offers a replacement vehicle under this section, the consumer has the option of rejecting the replacement vehicle and requiring the manufacturer to provide a refund. Refunds must be made to the consumer, and lienholder, if any, as their interests appear on the records of the division of motor vehicles of the Idaho transportation department. A manufacturer must give to the consumer an itemized statement listing each of the amounts refunded under this section. If the amount of sales or excise tax refunded is not separately stated, or if the manufacturer does not apply for a refund of the tax within one (1) year of the return of the motor vehicle, the state tax commission may refund the tax, as determined under subsection (8) of this section, directly to the consumer and lienholder, if any, as their interests appear on the records of the division of motor vehicles. It is an affirmative defense to any claim under this chapter: (a) that an alleged nonconformity does not impair the use or market value, or (b) that a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by anyone other than the manufacturer, its agent or its authorized dealer.

(2) It is presumed that a reasonable number of attempts have been undertaken to conform a new motor vehicle to the applicable express warranties, if: (a) the same nonconformity has been subject to repair four (4) or more times by the manufacturer, its agents, or its authorized dealers within the applicable express warranty term or during the period of two (2) years following the date of original delivery of the new motor vehicle to a consumer or during the period ending with the date on which the mileage on the motor vehicle reaches twenty-four thousand (24,000) miles, whichever is the earliest date, but the nonconformity continues to exist. However, the manufacturer shall have at least one (1) opportunity to attempt to repair the vehicle before it is presumed a reasonable number of attempts have been undertaken to conform the vehicle to the applicable express warranty; or (b) the vehicle is out of service by reason of repair for a cumulative total of thirty (30) or more business days during the term or during the

period, whichever is the earlier date.

(3) If the nonconformity results in a complete failure of the braking or steering system of the new motor vehicle and is likely to cause death or serious bodily injury if the vehicle is driven, it is presumed that a reasonable number of attempts have been undertaken to conform the vehicle to the applicable express warranties if the nonconformity has been subject to repair at least once by the manufacturer, its agents, or its authorized dealers within the applicable express warranty term or during the period of two (2) years following the date of original delivery of the new motor vehicle to a consumer or during the period ending with the date on which the mileage on the motor vehicle reaches twenty-four thousand (24,000) miles, whichever is the earliest date, and the nonconformity continues to exist. However, the manufacturer shall have at least one (1) opportunity to attempt to repair the vehicle before it is presumed a reasonable number of attempts have been undertaken to conform the vehicle to the applicable express warranty.

(4) The term of an applicable express warranty, the two (2) year period and the thirty (30) day period shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, or fire, flood, or other natural disaster.

(5) The presumption contained in subsection (2) of this section applies against a manufacturer only if the manufacturer, its agent, or its authorized dealer has received prior written notification from or on behalf of the consumer at least once and an opportunity to cure the defect alleged. If the notification is received by the manufacturer's agent or authorized dealer, the agent or dealer must forward it to the manufacturer by certified mail, return receipt requested. However, if the manufacturer is not notified either by the consumer or the manufacturer's agent or authorized dealer, then the manufacturer shall have at least one (1) opportunity to cure the alleged defect.

(6) The expiration of the time periods set forth in subsection (2) of this section does not bar a consumer from receiving a refund or replacement vehicle under subsection (1) of this section if the reasonable number of attempts to correct the nonconformity causing the substantial impairment occur within three (3) years following the date of original delivery of the new motor vehicle to a consumer, provided the consumer first reported the nonconformity to the manufacturer, its agent, or its authorized dealer during the term of the applicable express warranty.

(7) The manufacturer shall provide to its agent or authorized dealer and, at the time of purchase or lease, the manufacturer's agent or authorized dealer shall provide a written statement to the consumer in the new motor vehicle warranty guide, in 10-point all capital type, in substantially the following form: "IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER THE STATE'S LEMON LAW TO REPLACEMENT OF IT OR A REFUND OF ITS PURCHASE PRICE OR YOUR LEASE PAYMENTS. HOWEVER, TO BE ENTITLED TO REFUND OR REPLACEMENT, YOU MUST FIRST NOTIFY THE MANUFACTURER, ITS AGENT, OR ITS AUTHORIZED DEALER OF THE PROBLEM IN WRITING AND GIVE THEM AN OPPORTUNITY TO REPAIR THE VEHICLE. YOU ALSO HAVE A RIGHT TO SUBMIT YOUR CASE TO THE CONSUMER ARBITRATION PROGRAM WHICH THE MANUFACTURER MUST OFFER IN THIS STATE."

(8) The amount of the sales or excise tax to be paid by the manufacturer to the consumer under subsection (1) of this section shall be the tax paid by the consumer when the vehicle was purchased less an amount equal to the tax paid multiplied by a fraction, the denominator of which is the purchase price of the vehicle and the numerator of which is the allowance deducted from the refund for the consumer's use of the vehicle.

48-904. MANUFACTURER'S DUTY TO CONSUMERS WITH LEASED VEHICLES. A consumer who leases a new motor vehicle has the same rights against the manufacturer under this section as a consumer who purchases a new motor vehicle, except that, if it is determined that the manufacturer must accept return of the consumer's leased vehicle pursuant to section 48-903, Idaho Code, then the consumer lessee is not entitled to a replacement vehicle, but is entitled only to a refund as provided in this section. In such a case, the consumer's leased vehicle shall be returned to the manufacturer and the consumer's written lease with the motor vehicle lessor must be terminated after all charges are settled. The manufacturer shall provide the consumer with a full refund of all costs and charges described below less a reasonable allowance for use. The manufacturer shall provide to the consumer a refund of the pro rata amount of any down payment paid by the consumer on the written lease. The pro rata amount of such a refund shall be the amount of the down payment divided by the number of months of the lease agreement and that amount multiplied by the number of months remaining after the date of the arbitration. The manufacturer shall also refund to the consumer amounts identified as additional charges set forth in section 48-903, Idaho Code, if actually paid by the consumer. The reasonable allowance for use shall be the lease payments made by the consumer until the time of the award of a refund. The manufacturer shall provide the motor vehicle lessor or its assignee with a full refund of the early termination charges plus the residual value of the vehicle, as specified in the lease agreement. The amount of any refund by the manufacturer to the consumer for the pro rata portion of the down payment plus the amount of the refund to the motor vehicle lessor or its assignee by the manufacturer shall not exceed one hundred five percent (105%) of the vehicle's original manufacturer's suggested retail price.

48-905. RESALE OR RE-LEASE OF RETURNED MOTOR VEHICLE. (1) If a motor vehicle has been returned under the provisions of section 48-903, Idaho Code, or a similar statute of another state, whether as the result of a legal action or as the result of an informal dispute settlement proceeding, it may not be resold or re-leased in this state unless:

(a) The manufacturer provides the same express warranty it provided to the original purchaser, except that the term of the warranty need only last for twelve thousand (12,000) miles or twelve (12) months after the date of resale, whichever is earlier; and

(b) The manufacturer provides the consumer with a written statement on a separate piece of paper, in 10-point all capital type, in substantially the following form: "IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER BECAUSE IT DID NOT CONFORM TO THE

MANUFACTURER'S EXPRESS WARRANTY AND THE NONCONFORMITY WAS NOT CURED WITHIN A REASONABLE TIME AS PROVIDED BY IDAHO LAW."

The provisions of this chapter apply to the resold or re-leased motor vehicle for full term of the warranty required under this section. If a manufacturer has a program similar to the requirements of this subsection and that program provides, at a minimum, substantially the same protections for subsequent consumers, then the manufacturer shall be considered to be in compliance with this subsection.

(2) Notwithstanding the provisions of subsection (1) of this section, if a new motor vehicle has been returned under the provisions of section 48-903, Idaho Code, or a similar statute of another state because of a nonconformity resulting in a complete failure of the braking or steering system of the motor vehicle likely to cause death or serious bodily injury if the vehicle was driven and the failure has not been repaired by the manufacturer, its agent or its authorized dealer, the motor vehicle may not be resold in this state.

48-906. ALTERNATIVE DISPUTE SETTLEMENT MECHANISM. (1) Any manufacturer doing business in this state, entering into franchise agreements for the sale of its motor vehicles in this state, or offering express warranties on its motor vehicles sold or distributed for sale in this state shall operate, or participate in, an informal dispute settlement mechanism located in the state of Idaho which complies with the provisions of title 16, code of federal regulations, part 703, and the requirements of this section. The provisions of section 48-903, Idaho Code, concerning refunds or replacement do not apply to a consumer who has not first used this mechanism before commencing a civil action, unless the manufacturer allows a consumer to commence an action without first using this mechanism.

(2) An informal dispute settlement mechanism provided for by this chapter shall, at the time a request for arbitration is made, provide to the consumer and to each person who will arbitrate the consumer's dispute, information about this chapter as approved and directed by the attorney general, in consultation with interested parties. The informal dispute settlement mechanism shall permit the parties to present or submit any arguments based on this chapter and shall not prohibit or discourage the consideration of any such arguments.

(3) If, in an informal dispute settlement mechanism, it is decided that a consumer is entitled to a replacement vehicle or refund under section 48-903, Idaho Code, then any refund or replacement offered by the manufacturer or selected by a consumer shall include and itemize all amounts authorized by section 48-903, Idaho Code. If the amount of excise tax refunded is not separately stated, or if the manufacturer does not apply for a refund of the tax within one (1) year of the return of the motor vehicle, the state tax commission may refund the sales tax, as determined under subsection (8) of section 48-903, Idaho Code, directly to the consumer and lienholder, if any, as their interests appear on the records of the division of motor vehicles of the Idaho transportation department.

(4) No documents shall be received by any informal dispute settlement mechanism unless those documents have been provided to each of the parties in the dispute at or prior to the mechanism's meeting, with an opportunity for the parties to comment on the documents either

in writing or orally. If a consumer is present during the informal dispute settlement mechanism's meeting, the consumer may request postponement of the mechanism's meeting to allow sufficient time to review any documents presented at the time of the meeting which had not been presented to the consumer prior to the meeting.

(5) The informal dispute settlement mechanism shall allow each party to appear and make an oral presentation in the state of Idaho unless the consumer agrees to submit the dispute for decision on the basis of documents alone or by telephone, or unless the party fails to appear for an oral presentation after reasonable prior written notice. However, the manufacturer or its representative may participate in the informal dispute settlement mechanism's meeting by telephone if it chooses. If the consumer agrees to submit the dispute for decision on the basis of documents alone, then manufacturer or dealer representatives may not participate in the discussion or decision of the dispute.

(6) Consumers shall be given an adequate opportunity to contest a manufacturer's assertion that a nonconformity falls within intended specifications for the vehicle by having the basis of the manufacturer's claim appraised by a technical expert selected and paid for by the consumer prior to the informal dispute settlement hearing.

(7) Where there has been a recent attempt by the manufacturer to repair a consumer's vehicle, but no response has yet been received by the informal dispute mechanism from the consumer as to whether the repairs were successfully completed, the parties must be given the opportunity to present any additional information regarding the manufacturer's recent repair attempt before any final decision is rendered by the informal dispute settlement mechanism. This provision shall not prejudice a consumer's rights under this chapter.

(8) If the manufacturer knows that a technical service bulletin directly applies to the specific mechanical problem being disputed by the consumer, then the manufacturer shall provide the technical service bulletin to the consumer at reasonable cost upon request. The mechanism shall review any such technical service bulletins submitted by either party.

(9) A consumer may be charged a fee to participate in an informal dispute settlement mechanism required by this chapter, but the fee may not exceed the conciliation court filing fee in the county where the arbitration is conducted.

(10) Any party to the dispute has the right to be represented by an attorney in an informal dispute settlement mechanism.

(11) The informal dispute settlement mechanism has all the evidence-gathering powers granted an arbitrator under the uniform arbitration act.

(12) A decision issued in an informal dispute settlement mechanism required by this section may be in writing and signed.

48-907. EFFECT AND ADMISSIBILITY OF DECISION BY INFORMAL DISPUTE SETTLEMENT MECHANISM. The decision issued in an informal dispute settlement mechanism required by this chapter is nonbinding on the parties involved, unless otherwise agreed by the parties. Any party, upon application, may remove the decision to district court for a trial de novo. If the manufacturer is aggrieved by the decision of the infor-

mal dispute settlement mechanism, an application to remove the decision must be filed in the district court within thirty (30) days after the date the decision is received by the parties. If the application to remove is not made within thirty (30) days, then the district court shall, upon application of a party, issue an order confirming the decision. A written decision issued by an informal dispute settlement mechanism, and any written findings upon which the decision is based, are admissible as nonbinding evidence in any subsequent legal action and are not subject to further foundation requirements.

48-908. TREBLE DAMAGES FOR BAD FAITH APPEAL OF DECISION. If the district court finds that a party has removed a decision of an informal dispute settlement mechanism in bad faith, by asserting a claim or defense that is frivolous and costly to the other party, or by asserting an unfounded position solely to delay recovery by the other party, then the court shall award to the prevailing party three (3) times the actual damages sustained, together with costs and attorney's fees.

48-909. CIVIL REMEDY. Any consumer injured by a violation of this chapter may bring a civil action to enforce this chapter and recover costs and disbursements, including reasonable attorney's fees incurred in the civil action. However, the provisions of this section do not include recovery of attorney's fees previously incurred in the course of informal dispute resolution. In addition to the remedies provided herein, the attorney general may, when in the public interest, bring an action pursuant to the Idaho consumer protection act, chapter 6, title 48, Idaho Code, against any manufacturer for violation of this chapter. For purposes of such action, violations of this chapter shall be deemed to be violations of Idaho's consumer protection act. In any such action, the attorney general and district court shall have the same authority as is granted the attorney general and district court under the Idaho consumer protection act.

48-910. LIMITATION ON ACTIONS. A civil action brought under this chapter must be commenced within three (3) years of the date of original delivery of the new motor vehicle to a consumer, except that if the consumer applies to an informal dispute settlement mechanism within three (3) years of the date of original delivery of the new motor vehicle to a consumer, and if the consumer is aggrieved by the decision of the informal dispute settlement mechanism, then any appeal of that decision brought under this chapter must be commenced within three (3) months after the date of the final decision by the mechanism.

48-911. REMEDY NONEXCLUSIVE. Nothing in this chapter limits the rights or remedies which are otherwise available to a consumer under any other law.

48-912. DISCLOSURE REQUIREMENT. In addition to any investigative powers authorized by law, the attorney general may inspect the records of the informal dispute settlement mechanism upon reasonable notice, during regular business hours, and may make available to the public

information about the operation of the mechanism, but data on an individual case may not be disclosed without the prior consent of the affected parties.

48-913. DEALER LIABILITY. Nothing in this chapter imposes liability on a dealer or creates an additional cause of action by a consumer against a dealer, except for written express warranties made by the dealer apart from the manufacturer's warranties. The manufacturer shall not charge back or require reimbursement by the dealer for any costs, including, but not limited to, any refunds or vehicle replacements, incurred by the manufacturer arising out of this chapter, unless there is evidence that the related repairs had not been carried out by the dealer in a timely manner or in a manner substantially consistent with the manufacturer's published instructions.

Approved March 25, 1998.

CHAPTER 334
(S.B. No. 1415)

AN ACT

RELATING TO THE FISH AND GAME COMMISSION; AMENDING SECTION 36-102, IDAHO CODE, TO PROVIDE FOR THE EXPIRATION OF TERMS ON JUNE 30 AND TO PROVIDE THAT FOR MEMBERS WHOSE TERMS WILL EXPIRE IN 1999, TWO MEMBERS SHALL BE APPOINTED FOR A TERM OF THREE YEARS, WITH THEIR SUCCESSORS TO BE APPOINTED FOR A TERM OF FOUR YEARS, AND TWO MEMBERS SHALL BE APPOINTED FOR A TERM OF FOUR YEARS.

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

SECTION 1. Than Section 36-102, Idaho Code, be, and the same is hereby amended to read as follows:

36-102. IDAHO FISH AND GAME COMMISSION. (a) Creation. There is hereby created the Idaho fish and game commission. The department of fish and game of the state of Idaho is hereby placed under the supervision, management and control of said Idaho fish and game commission, hereinafter referred to as the commission or as said commission.

(b) Membership -- Appointment -- Qualifications. The commission shall consist of seven (7) members, to be appointed by the governor of the state of Idaho, who shall hold office during the pleasure of the governor and who shall be subject to removal by him. The selection and appointment of said members shall be made solely upon consideration of the welfare and best interests of fish and game in the state of Idaho, and no person shall be appointed a member of said commission unless he shall be well informed upon, and interested in, the subject of wildlife conservation and restoration. No member shall hold any other elective or appointive office, state, county or municipal, or any office in any political party organization. Not more than four (4) of the members of said commission shall at any time belong to the same political party. Each of the members of said commission shall be a

citizen of the United States, and of the state of Idaho, and a bona fide resident of the region from which he is appointed as hereinafter set forth. Said members so appointed shall act and assume full powers and duties upon appointment, as herein provided, but such appointments shall be subject to confirmation by the senate at its next session.

(c) Creation of Regions ~~---Terms of Office~~. For the purpose of this act, the state of Idaho is divided into seven (7) regions, which shall be named:

(1) Panhandle region to consist of the counties of Boundary, Bonner, Kootenai, Shoshone and Benewah;

(2) Clearwater region to consist of the counties of Latah, Clearwater, Nez Perce, Lewis and Idaho;

(3) Southwestern region to consist of the counties of Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore and Owyhee;

(4) Magic Valley region to consist of the counties of Camas, Blaine, Gooding, Lincoln, Minidoka, Jerome, Twin Falls and Cassia;

(5) Southeastern region to consist of the counties of Bingham, Power, Bannock, Caribou, Oneida, Franklin and Bear Lake;

(6) Upper Snake River region to consist of the counties of Clark, Fremont, Butte, Jefferson, Madison, Teton and Bonneville;

(7) Salmon region to consist of the counties of Lemhi and Custer.

Each of the above enumerated regions shall, at all times, be represented by one (1) member of the commission, appointed from said region by the governor.

(d) Terms of Office.

(1) Except ~~as~~ provided in paragraph (2) of this subsection, t~~T~~he members of said commission shall be appointed for a term of four (4) years; provided, that in the case of the death of any commissioner, or his removal from office as hereinbefore provided, the governor shall appoint a successor from the same region for the unexpired term. Beginning in 1999 and thereafter, the term of each member shall expire on June 30. The term of any member which would otherwise expire prior to June 30 shall be extended to June 30. No member shall serve more than two (2) ~~consecutive~~ terms, except that a member appointed to fill an unexpired term may be appointed to two (2) additional, full terms. Members serving on the effective date of this act shall be eligible to complete the term they are then serving, and shall thereafter be governed by the provisions of this subsection limiting the length of any additional terms to four (4) years and the number of ~~consecutive~~ terms to two (2).

(2) In appointing successors for the members whose terms expire in 1999, the governor shall designate two (2) members to be appointed for a term of three (3) years and two (2) members to be appointed for a term of four (4) years. Successors to the members appointed for a term of three (3) years shall be appointed for a term of four (4) years thereafter.

(~~d~~e) Oath of Office -- Bond. Each commissioner shall, before entering upon his official duties, take and subscribe to the official oath, in writing, as provided by section 59-401, Idaho Code, to which said official oath there shall be added a declaration as to the name of the political party to which such commissioner belongs, and said

commissioner shall be bonded to the state of Idaho in the time, form, and manner prescribed by chapter 8, title 59, Idaho Code.

(~~e~~f) Compensation and Reimbursement for Expenses. Each member of the commission shall be compensated as provided by section 59-509(h), Idaho Code. All such compensation and expenses shall be paid from the fish and game account.

(~~f~~g) Quorum. A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power.

(~~g~~h) Office and Supplies. The commission shall have its principal office in the city of Boise and is authorized to purchase supplies, equipment, printed forms, and notices, and to issue such publications as may be necessary.

Approved March 25, 1998.

CHAPTER 335
(S.B. No. 1393, As Amended)

AN ACT

RELATING TO PSYCHOLOGICALLY IMPACTED REAL PROPERTY; AMENDING TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 27, TITLE 55, IDAHO CODE, TO DEFINE PSYCHOLOGICALLY IMPACTED, TO PROVIDE THAT NO CAUSE OF ACTION SHALL ARISE AGAINST AN OWNER OR OWNER'S REPRESENTATIVE FOR A FAILURE TO DISCLOSE TO A TRANSFEREE OF THE PROPERTY THAT THE PROPERTY WAS PSYCHOLOGICALLY IMPACTED, AND TO PROVIDE FOR VOLUNTARY DISCLOSURE OF SUCH INFORMATION BY THE OWNER UPON A PURCHASER'S REQUEST.

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 27, Title 55, Idaho Code, and to read as follows:

CHAPTER 27
PSYCHOLOGICALLY IMPACTED REAL PROPERTY

55-2701. PSYCHOLOGICALLY IMPACTED DEFINED. As used in this chapter, "psychologically impacted" means the effect of certain circumstances surrounding real property which include, but are not limited to, the fact or suspicion that real property might be or is impacted as a result of facts or suspicions including, but not limited to the following:

(1) That an occupant or prior occupant of the real property is or was at any time suspected of being infected or has been infected with a disease which has been determined by medical evidence to be highly unlikely to be transmitted through the occupancy of a dwelling place; or

(2) That the real property was at any time suspected of being the site of suicide, homicide or the commission of a felony which had no

effect on the physical condition of the property or its environment or the structures located thereon; or

(3) That a registered or suspected sex offender occupied or resides near the property.

55-2702. NO CAUSE OF ACTION. No cause of action shall arise against an owner of real property or a representative of the owner for a failure to disclose to the transferee of the real property or a representative of the transferee that the real property was psychologically impacted.

55-2703. REQUEST FOR DISCLOSURE. In the event that a purchaser who is in the process of making a bona fide offer advises the owner's representative in writing that knowledge of whether the property may be psychologically impacted is an important factor in the purchaser's decision to purchase the property, the owner's representative shall make inquiry of the owner and, with the consent of the owner and subject to and consistent with the applicable laws of privacy, shall report any findings to the purchaser. If the owner refuses disclosure, the owner's representative shall advise the purchaser or the purchaser's representative that the information will not be disclosed.

Approved March 25, 1998.

CHAPTER 336
(S.B. No. 1397, As Amended)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-417, IDAHO CODE, TO PROVIDE FOR SELECTION OF ANY ONE OF TWO IDAHO WILDLIFE SPECIAL LICENSE PLATES, TO PROVIDE FEES, TO PROVIDE THAT SOME FEES SHALL BE TREATED AS CONTRIBUTIONS TO THE NONGAME WILDLIFE PROGRAM, TO AUTHORIZE THE DESIGN OF MORE THAN ONE WILDLIFE LICENSE PLATE, TO PROHIBIT USE OF MORE THAN TWO DIFFERENT DESIGNS AT ANY ONE TIME AND TO PROVIDE THAT SOME FEES SHALL BE USED TO FUND THE COST OF ADMINISTRATION OF THE SPECIAL LICENSE PLATE PROGRAM.

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

SECTION 1. That Section 49-417, Idaho Code, be, and the same is hereby amended to read as follows:

49-417. IDAHO WILDLIFE SPECIAL PLATES. (1) On and after July 1, 199~~3~~8, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, may apply for <u>any one (1) of two (2)</u> Idaho wildlife special license plates.

(2) In addition to the regular operating fee, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of the plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Twenty-five dollars ($25.00) of the initial fee and fifteen dollars ($15.00) of the renewal fee shall be

deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Ten dollars ($10.00) of each initial fee and ten dollars ($10.00) of each renewal fee shall be deposited by the state treasurer in the fish and game set-aside account pursuant to section 36-111, Idaho Code, for use in the nongame ~~management-and-protection~~ wildlife program. This fee shall be treated as a contribution to the nongame wildlife program, and shall not be considered a motor vehicle registration fee as described in section 17, article VII, of the constitution of the state of Idaho.

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. He may only display the plates after receipt of new registration from the department.

(3) ~~The~~ Each Idaho wildlife license plate shall be of a color and design acceptable to the board of directors of the Idaho fish and wildlife foundation and approved by the department, utilizing a numbering system as determined by the department. The Idaho fish and wildlife foundation is authorized to design more than one (1) wildlife plate, but the department may not allow more than two (2) different designs to be in use at any one (1) time. Initial costs of the plate program including costs of plate design shall be paid by the ~~board--of directors-of-the~~ Idaho fish and wildlife foundation.

(4) Sample Idaho wildlife plates may be purchased for a fee of thirty dollars ($30.00), twelve dollars ($12.00) of which shall be deposited in the state highway account ~~and~~ to be used to fund the cost of administration of this special license plate program. Eeighteen dollars ($18.00) of ~~which~~ the purchase fee shall be deposited in the fish and game set-aside account pursuant to section 36-111, Idaho Code, for use in the nongame ~~management-and-protection~~ wildlife program.

Approved March 25, 1998.

CHAPTER 337
(S.B. No. 1371)

AN ACT

RELATING TO ORGANIZATION AND CORPORATION POWERS OF BANKS AND EXCEPTIONS FROM THE LOAN BROKERS STATUTE; AMENDING SECTION 26-203, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-204, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-1206, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 26-2502, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 26-203, Idaho Code, be, and the same is hereby amended to read as follows:

26-203. ARTICLES OF INCORPORATION -- FORM. Proposed articles of incorporation of a banking corporation shall be in a form acceptable to the director, and must be submitted to the director for approval as to form and content before the same are filed for record in the offices of the secretary of state and county recorder; provided that no bank shall be required to have the word "corporation" in its corporate name. The articles may include a provision which eliminates or limits the personal liability of the directors of the bank in accordance with section 30-1-~~54~~202, Idaho Code, provided that such provision shall not eliminate or limit the liability of a director under section 26-213(5), Idaho Code.

SECTION 2. That Section 26-204, Idaho Code, be, and the same is hereby amended to read as follows:

26-204. ARTICLES OF INCORPORATION -- AMENDMENT. Any proposed amendment to the articles of incorporation of a bank shall, before the same is adopted, be submitted to the director for his approval as to form and content. In addition to the articles of amendment to be filed with the secretary of state under the provisions of the general business corporation act, like articles and a copy of the articles of incorporation as amended must be filed in the office of the director and no amendment shall be operative nor effective until such articles be filed in the office of the director and shall have been approved in writing by the director. The articles of incorporation may be amended to include a provision which eliminates or limits the personal liability of the directors of the bank in accordance with section 30-1-~~54~~202, Idaho Code, provided that such provision shall not eliminate or limit the liability of a director under section 26-213(5), Idaho Code.

SECTION 3. That Section 26-1206, Idaho Code, be, and the same is hereby amended to read as follows:

26-1206. PENALTY FOR UNLAWFUL HYPOTHECATION OF ASSETS. Any officer or employee of any bank or the bank holding company owning or controlling the bank, doing business in this state who, except in the manner authorized by law or the contract of the parties, hypothecates, pledges or in any way alienates any notes, stocks, bonds, mortgages, securities or any other property coming into his hands or into the possession of said bank as collateral, for safekeeping or in any other manner, and to which the bank has not acquired full title, shall be guilty of ~~embezzlement~~ theft, and upon conviction thereof shall be punished as provided in section ~~26-1209~~ 18-2408, Idaho Code.

SECTION 4. 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 ~~uni-~~

~~form-consumer~~ Idaho 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 ~~c~~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 securities exchange act of 1934 and regulation T of the federal reserve board, code of federal 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 25, 1998.

CHAPTER 338
(S.B. No. 1355)

AN ACT

RELATING TO THE IDAHO BOARD OF COSMETOLOGY; AMENDING SECTION 54-818, IDAHO CODE, TO INCREASE THE CAP ON EXAMINATION FEES TO SEVENTY-FIVE DOLLARS, TO INCREASE THE CAP ON ALL OTHER LICENSING FEES TO FIFTY DOLLARS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-818, Idaho Code, be, and the same is hereby amended to read as follows:

54-818. FEES. The various fees to be paid by applicants for original registrations, original licenses, annual renewals, certificates issued upon reciprocity, and examinations as required under this chapter shall be fixed by administrative rules of the board in amounts not to exceed the following:

(a) Original registrations, licenses, and annual renewals thereof:

cosmetological establishment, original registration .....$ 50.00
cosmetological establishment, annual renewals ..... ~~3~~50.00
retail cosmetics dealer, original registration 50.00
retail cosmetics dealer, annual renewals ..... ~~3~~50.00

makeover or glamour photography business, original registration 50.00
makeover or glamour photography business, annual renewals .... ~~3~~50.00
domestic school of cosmetology, original registration 500.00
domestic school of cosmetology, annual renewals 150.00
registered cosmetologist, original license/annual renewals ... ~~2~~50.00
nail technician, original license/annual renewals ..... ~~2~~50.00
apprentice, original license (no renewal fees required) 20.00
student certificate (no renewal fees required) 20.00
instructor, original license/annual renewals ..... ~~2~~50.00
student instructor certificate 25.00
electrologist/esthetician, original license/annual renewals ..... ~~22~~50.00
esthetician, original license/annual renewals ..... ~~22~~50.00
endorsement 100.00
interim certificate when endorsement denied, also constitutes examination ..... ~~3~~75.00
temporary license to practice, demonstrate and teach 10.00

(b) Examination:

as a registered cosmetologist ..... $~~3~~75.00
as a nail technician ..... ~~3~~75.00
as an instructor when required by board ~~regulation~~ rule ..... ~~3~~75.00
as an electrologist/esthetician ..... ~~3~~75.00
as an esthetician ..... ~~3~~75.00

Fees shall not be prorated or returnable.

All certificates expire December 31.

Approved March 25, 1998.

CHAPTER 339
(S.B. No. 1339, As Amended in the House)

AN ACT

RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2108, IDAHO CODE, TO PROVIDE THAT A BOND SHALL ACCOMPANY LICENSE APPLICATIONS MADE TO THE BOARD UNLESS OTHER ARRANGEMENTS HAVE BEEN MADE WITH THE BOARD, TO CLARIFY THAT BONDS SUBMITTED WITH LICENSE APPLICATIONS ARE PAYABLE TO THE EMPLOYER OF THE LICENSEE, TO INCREASE THE BOND AMOUNT, TO INCREASE LICENSE FEES FOR OUTFITTERS, AGENTS AND GUIDES, TO REQUIRE THE BOARD TO ESTABLISH ONE-TIME APPLICATION FEES FOR OUTFITTERS, AGENTS AND GUIDES, TO PROVIDE LIMITS ON THOSE FEES, AND TO REQUIRE THAT THE BOARD ESTABLISH IN RULE A POLICY FOR REFUNDING UNUSED APPLICATION FEES.

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

SECTION 1. That Section 36-2108, Idaho Code, be, and the same is hereby amended to read as follows:

36-2108. APPLICATION FOR LICENSE -- CONTENTS -- FEE -- QUALIFICATIONS -- TERM -- BOND. (a) Each applicant for an outfitter's or

guide's license shall make application for such license upon a form to be prescribed and furnished by the board.

1. All applications for an outfitter's license shall be signed by the applicant, under oath or affirmation that all information supplied by him in the application form is true and correct as he verily believes and shall be duly notarized. Such applications shall include, but are not limited to, a worded description of the boundaries of the operating area in which such activity will be conducted.

2. All applications for a guide's license shall be signed by the applicant. Such application shall contain the written endorsement of the outfitter(s) by whom the applicant will be employed.

(b) Applications shall be made to and filed with the board and, unless arrangements have been made otherwise with the board, accompanied by a bond payable to the ~~state of Idaho for the benefit of~~ person or persons employing the licensee and in a form approved by the board in the sum of ~~five~~ ten thousand dollars ($~~5~~10,000) for outfitters, executed by a qualified surety, duly authorized to do business in this state, conditioned that for the current license year said applicant, his agents and employees, if said license is issued to him, shall conduct his business as an outfitter without fraud or fraudulent representation, and will faithfully perform his contracts with and duties to his patrons; said bond shall be filed with the board before issuance of the license as provided herein.

(c) The board, in its discretion, may make such additional investigation and inquiry relative to the applicant and his qualifications as it shall deem advisable, provided that final decision by the board upon an application submitted by an applicant who has held during the preceding license year a license of the same kind for which application is made shall not be later than March 31 of the year in which the board receives all materials required to be submitted in order to complete a license application or thirty (30) days from the date the board receives all such materials, whichever is later; and upon an application submitted by an applicant not holding during the preceding license year a license of the same kind or embracing the same activity(ies) or area for which application is made, not later than March 31 of the year in which the board receives all materials required to be submitted in order to complete a license application or ninety (90) days from the date the board receives all such materials, whichever is later.

(d) After the board has acted favorably upon an application, the applicant shall pay a license fee, as hereinafter provided, to the board.

1. The license fee shall be paid prior to the issuance of a license.

2. The license fee shall be used for the investigation of applicants, for enforcement of this act, and for the administration costs of the board.

3. The license fee for resident and nonresident outfitters shall be ~~two~~ three hundred ~~fifty~~ dollars ($~~25~~300); the license fee for a designated agent as defined in section 36-2102(b), Idaho Code, shall be one hundred twenty dollars ($1~~0~~20); and the license fee for resident and nonresident guides shall be ~~eighty~~ninety-five

dollars ($~~80~~95.00). A penalty fee in the amount of fifty dollars ($50.00) may be charged in addition to the regular outfitter's license fee for any such renewal applicant whose application is not complete by March 31 of the year in which application for such license is made; this does not apply to a new applicant for an outfitter's license. A seventy-five dollar ($75.00) fee shall be charged for every amendment to an outfitter's license other than an incidental amendment, and a ten dollar ($10.00) fee shall be charged for every incidental amendment to an outfitter's license and every amendment to a guide's license.

4. A one-time application fee for outfitters not to exceed four hundred dollars ($400), a one-time application fee for designated agents not to exceed fifty dollars ($50.00), and a one-time application fee for guides not to exceed ten dollars ($10.00) shall be established annually by the board and shall be used for application related expenses. The board shall establish by rule a policy to refund unused application fees.

Approved March 25, 1998.

CHAPTER 340
(S.B. No. 1338, As Amended in the House)

AN ACT

RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2113, IDAHO CODE, TO PROVIDE FOR REVOCATION OR SUSPENSION OF OUTFITTER'S AND GUIDE'S LICENSES FOR VIOLATION OF OUTFITTING AND GUIDING LAWS, TO PROVIDE THAT PENALTIES MAY INCLUDE ADMINISTRATIVE COSTS INCLUDING ATTORNEY'S FEES AND THE COST OF HEARING TRANSCRIPTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-2113, Idaho Code, be, and the same is hereby amended to read as follows:

36-2113. REVOCATION OR SUSPENSION OF LICENSE -- GROUNDS. (a) Every license shall, by virtue of this chapter, be subject to suspension, revocation or restriction by the board for the commission of any of the following acts:

1. For supplying false information or for failure to provide information required to be furnished by the license application form for a license currently valid or for other fraud or deception in procuring a license under the provisions of this chapter.
2. For fraudulent, untruthful or misleading advertising.
3. For conviction for a felony.
4. For ~~conviction of or~~ two (2) or more forfeitures of any deposits of money or collateral with a court or administrative agency or for a conviction for violation of regulations of the United States forest service or the bureau of land management.
5. For unethical or unprofessional conduct as defined by rules of

the board.

6. For conviction of any violation of any state or federal fish and game or outfitting and guiding laws.

7. For a substantial breach of any contract with any person utilizing his services.

8. For willfully (i) operating in any area for which the licensee is not licensed, or (ii) engaging in any activity for which the licensee is not licensed.

9. For the employment of an unlicensed guide by an outfitter.

10. For inhumane treatment of any animal used by the licensed outfitter or guide in the conduct of his business which endangers the health or safety of any guest or patron or which interferes with the conduct of his business.

11. For failure by any firm, partnership, corporation or other organization or any combination thereof licensed as an outfitter to have at least one (1) licensed outfitter as designated agent conducting its outfitting business who meets all of the qualifications and requirements of a licensed outfitter.

12. For the failure to provide any animal used by the licensed outfitter or guide in the conduct of his business with proper food, drink and shelter, or for the subjection of any such animal to needless abuse or cruel and inhumane treatment.

13. For failure of an outfitter to serve the public in any of the following ways: (i) by nonuse of license privileges as defined by rules ~~and regulations~~ of the board, (ii) by limiting services to any individual, group, corporation or club that limits its services to a membership, or (iii) by not offering services to the general public.

14. For violation of or noncompliance with any applicable provision of this act, or for violation of any lawful rule~~, regulation,~~ or order of the outfitter's and guide's board.

(b) For the purposes of this section, the term "conviction" shall mean a finding of guilt, an entry of a guilty plea by a defendant and its acceptance by the court, or a forfeiture of bail bond or collateral deposited to secure a defendant's appearance, suspended sentence, probation or withheld judgment.

(c) In ~~lieu of~~ addition to the penalties imposed in this section, the board may impose an administrative fine not to exceed five thousand dollars ($5,000), or the administrative costs of bringing the action before the board including, but not limited to, attorney's fees and costs of hearing transcripts, for each violation of the provisions of this chapter.

Approved March 25, 1998.

CHAPTER 341
(S.B. No. 1316, As Amended in the House)

AN ACT

RELATING TO TERMS OF DETENTION OF A PERSON POTENTIALLY MENTALLY ILL; AMENDING SECTION 66-326, IDAHO CODE, TO PROVIDE AN ADDITIONAL CONDITION FOR THE DETENTION WITHOUT HEARING OF A PERSON POTENTIALLY MENTALLY ILL; AND AMENDING SECTION 66-329, IDAHO CODE, TO CLARIFY EXCLUSIONS FROM PROVISIONS FOR INVOLUNTARY ADMISSION AND TO REDUCE THE MAXIMUM TERM OF INVOLUNTARY COMMITMENT.

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

SECTION 1. That Section 66-326, Idaho Code, be, and the same is hereby amended to read as follows:

66-326. DETENTION WITHOUT HEARING. (a) No person shall be taken into custody as an alleged emergency patient unless and until the court has ordered such apprehension and custody under the provisions outlined in section 66-329, Idaho Code; provided, however, that a person may be taken into custody by a peace officer and placed in a facility, if the peace officer has reason to believe that the <u>person is gravely disabled due to mental illness or the</u> person's continued liberty poses an imminent danger to that person or others, as evidenced by a threat of substantial physical harm; provided, under no circumstances shall the proposed patient be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses. Whenever a person is taken into custody under this section without court order, the evidence supporting the claim of <u>grave disability due to mental illness or</u> imminent danger must be presented to a duly authorized court within twenty-four (24) hours from the time the individual was placed in custody.

(b) If the court finds the individual to be <u>gravely disabled due to mental illness or</u> imminently dangerous under subsection (a) of this section, the court shall issue a temporary custody order requiring the person to be held in a facility, and requiring an examination of the person by a designated examiner within twenty-four (24) hours of the entry of the order of the court. Under no circumstances shall the proposed patient be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses.

(c) Where an examination is required under subsection (b) of this section, the designated examiner shall make his findings and report to the court within twenty-four (24) hours of the examination.

(d) If the designated examiner finds, in his examination under this section, that the person is mentally ill, and either is likely to injure himself or others or is gravely disabled <u>due to mental illness,</u> the prosecuting attorney shall file, within twenty-four (24) hours of the examination of the person, a petition with the court requesting the patient's detention pending commitment proceedings pursuant to the provisions of section 66-329, Idaho Code. Upon the receipt of such a petition, the court shall order his detention to await hearing which shall be within five (5) days (including Saturdays, Sundays and legal

holidays) of the detention order. If no petition is filed within twenty-four (24) hours of the designated examiner's examination of the person, the person shall be released.

(e) Any person held in custody under the provisions of this section shall have the same protection and rights which are guaranteed to a person already committed to the department director. Upon taking a person into custody, notice shall be given to the person's immediate relatives of the person's physical whereabouts and the reasons for taking the person into custody.

SECTION 2. That Section 66-329, Idaho Code, be, and the same is hereby amended to read as follows:

66-329. COMMITMENT TO DEPARTMENT DIRECTOR UPON COURT ORDER -- JUDICIAL PROCEDURE. (a) Proceedings for the involuntary care and treatment of mentally ill persons by the department of health and welfare may be commenced by the filing of a written application with a court of competent jurisdiction by a friend, relative, spouse or guardian of the proposed patient, or by a licensed physician, prosecuting attorney, or other public official of a municipality, county or of the state of Idaho, or the director of any facility in which such patient may be.

(b) The application shall state the name and last known address of the proposed patient; the name and address of either the spouse, guardian, next of kin or friend of the proposed patient; whether the proposed patient can be cared for privately in the event commitment is not ordered; if the proposed patient is, at the time of the application, a voluntary patient; whether the proposed patient has applied for release pursuant to section 66-320, Idaho Code; and a simple and precise statement of the facts showing that the proposed patient is mentally ill and either likely to injure himself or others or is gravely disabled due to mental illness.

(c) Any such application shall be accompanied by a certificate of a designated examiner stating that he has personally examined the proposed patient within the last fourteen (14) days and is of the opinion that the proposed patient is (i) mentally ill; (ii) likely to injure himself or others or is gravely disabled due to mental illness; and (iii) lacks capacity to make informed decisions about treatment, or a written statement by the applicant that the proposed patient has refused to submit to examination by a designated examiner.

(d) Upon receipt of an application for commitment, the court shall, within forty-eight (48) hours appoint another designated examiner to make a personal examination of the proposed patient or if the proposed patient has not been examined, the court shall appoint two (2) designated examiners to make individual personal examinations of the proposed patient and may order the proposed patient to submit to an immediate examination. If neither designated examiner is a physician, the court shall order a physical examination of the proposed patient. At least one (1) designated examiner shall be a psychiatrist, licensed physician or licensed psychologist; no more than one (1) designated examiner may be a physician not practicing psychiatry, a holder of an earned master's level or higher degree in social work from an accredited program, a registered nurse with an earned master's

level or higher degree in psychiatric nursing from an accredited program, or a holder of an earned master's level or higher degree in psychology from an accredited program. The designated examiners shall report to the court their findings within the following seventy-two (72) hours as to the mental condition of the proposed patient and his need for custody, care, or treatment by a facility. The reports shall be in the form of written certificates which shall be filed with the court. The court may terminate the proceedings and dismiss the application without taking any further action in the event the reports of the designated examiners are to the effect that the proposed patient is not mentally ill or, although mentally ill, is not likely to injure himself or others or is not gravely disabled due to mental illness. If the proceedings are terminated, the proposed patient shall be released immediately.

(e) If the designated examiner's certificate states a belief that the proposed patient is mentally ill and either likely to injure himself or others or is gravely disabled due to mental illness, the judge of such court shall issue an order authorizing any health officer, peace officer, or director of a facility to take the proposed patient to a facility in the community in which the proposed patient is residing or to the nearest facility to await the hearing and for good cause may authorize treatment during such period subject to the provisions of section 66-346(a)(4), Idaho Code. Under no circumstances shall the proposed patient be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses.

(f) Upon receipt of such application and designated examiners' reports the court shall appoint a time and place for hearing not more than seven (7) days from the receipt of such designated examiners' reports and thereupon give written notice of such time and place of such hearing together with a copy of the application, designated examiner's certificates, and notice of the proposed patient's right to be represented by an attorney, or if indigent, to be represented by a court-appointed attorney, to the applicant, to the proposed patient, to the proposed patient's spouse, guardian, next of kin or friend. With the consent of the proposed patient and his attorney, the hearing may be held immediately. Upon motion of the proposed patient and attorney and for good cause shown, the court may continue the hearing up to an additional fourteen (14) days during which time, for good cause shown, the court may authorize treatment.

(g) An opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel in accordance with chapter 8, title 19, Idaho Code, no later than the time the application is received by the court.

(h) The hearing shall be held at a facility, at the home of the proposed patient, or at any other suitable place not likely to have a harmful effect on the proposed patient's physical or mental health. Venue for the hearing shall be in the county of residence of the proposed patient, unless the patient waives the right to have venue fixed there.

(i) In all proceedings under this section, any existing provision of the law prohibiting the disclosure of confidential communications between the designated examiner and proposed patient shall not apply

and any designated examiner who shall have examined the proposed patient shall be a competent witness to testify as to the proposed patient's condition.

(j) The proposed patient, the applicant, and any other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The proposed patient shall be required to be present at the hearing unless the court determines that the mental or physical state of the proposed patient is such that his presence at the hearing would be detrimental to the proposed patient's health or would unduly disrupt the proceedings. A record of the proceedings shall be made as for other civil hearings. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall receive all relevant and material evidence consistent with the rules of evidence.

(k) If, upon completion of the hearing and consideration of the record, the court finds by clear and convincing evidence that the proposed patient:

(1) is mentally ill; and

(2) is, because of such condition, likely to injure himself or others, or is gravely disabled due to mental illness;

the court shall order the proposed patient committed to the custody of the department director for an indeterminate period of time not to exceed ~~three (3) years~~ one (1) year. The department director, through his dispositioner, shall determine within twenty-four (24) hours the least restrictive available facility consistent with the needs of each patient committed under this section for observation, care, and treatment.

(l) Nothing in this chapter or in any rule or regulation adopted pursuant thereto shall be construed to authorize the detention or involuntary admission to a hospital or other facility of an individual who:

(1) ~~is epileptic, mentally deficient, mentally retarded,~~ has epilepsy, a developmental disability, a physical disability, mental retardation, is impaired by chronic alcoholism or drug abuse, or aged, unless in addition to such condition, such person is mentally ill;

(2) is a patient under treatment by spiritual means alone, through prayer, in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof and who asserts to any authority attempting to detain him that he is under such treatment and who gives the name of a practitioner so treating him to such authority; or

(3) can be properly cared for privately with the help of willing and able family or friends, and provided, that such persons may be detained or involuntarily admitted if such persons are mentally ill and present a substantial risk of injury to himself or others if allowed to remain at liberty.

(m) The order of commitment shall state whether the proposed patient lacks capacity to make informed decisions about treatment, the name and address of the patient's attorney and either the patient's spouse, guardian, adult next of kin, or friend.

(n) If the patient has no spouse or guardian and if the patient

has property which may not be cared for pursuant to chapter 5, title 66, Idaho Code, or by the patient while confined at a facility, the court shall appoint a guardian ad litem for the purpose of preserving the patient's estate, pending further guardianship or conservatorship proceedings.

(o) The commitment shall continue until the commitment is terminated and shall be unaffected by the patient's conditional release or change in disposition.

Approved March 25, 1998.

CHAPTER 342
(S.B. No. 1311, As Amended)

AN ACT

RELATING TO RECREATIONAL ACTIVITIES AND SNOWMOBILES; AMENDING SECTION 67-7104, IDAHO CODE, TO REQUIRE A NONRESIDENT OWNER TO OBTAIN AN IDAHO REGISTRATION NUMBER IF IDAHO RESIDENTS ARE REQUIRED TO REGISTER IN THE RESIDENT STATE OR PROVINCE OF THE NONRESIDENT OWNER.

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

SECTION 1. That Section 67-7104, Idaho Code, be, and the same is hereby amended to read as follows:

67-7104. NONRESIDENT. The provisions of this chapter shall not apply to a nonresident, noncommercial owner who has a snowmobile which is currently numbered or licensed by his resident state or province, provided that the resident state or province does not charge a snowmobiling fee to Idaho residents. If a nonresident operates a snowmobile in this state for a period in excess of fifteen (15) consecutive days, the owner shall be liable for and shall pay to the director or his agent the fee as provided in section 67-7103, Idaho Code.

Approved March 25, 1998.

CHAPTER 343
(S.B. No. 1310, As Amended)

AN ACT

RELATING TO REGISTRATION OF SNOWMOBILES; AMENDING SECTION 67-7103, IDAHO CODE, TO INCREASE THE FEE FOR REGISTRATION OF A SNOWMOBILE, TO INCREASE THE PURCHASE PRICE TO RESIDENT AND NONRESIDENT OWNERS OF SNOWMOBILES OF CERTIFICATES OF NUMBER FOR RENTALS OF SNOWMOBILES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-7103, Idaho Code, be, and the same is hereby amended to read as follows:

67-7103. APPLICATION FOR NUMBER -- ATTACHMENT OF NUMBER -- CERTIFICATE -- APPLICATION FOR TRANSFER OF CERTIFICATE -- TRANSFER OF CERTIFICATE FEE -- TEMPORARY NUMBER -- FEES. (1) On or before November 1 of each year the owner of each snowmobile requiring numbering by the state of Idaho shall file an application for number with the department on forms approved by it. The application shall be signed by the owner and shall, except as provided in subsection (7) of this section, be accompanied by a fee of ~~fifteen~~ twenty dollars (~~$15~~20.00). Upon receipt of the application the department shall issue to the applicant a certificate of number stating the number assigned to the snowmobile and the name and address of the owner. The owner shall paint on or attach to the snowmobile the identification number in a manner as may be prescribed by rules ~~and regulations~~ of the department. The number shall be located on the right and left side of the cowling of the snowmobile and shall be completely visible and shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the snowmobile for which issued, wherever the snowmobile is in operation.

(2) The department may issue any certificate of number directly or may authorize any persons to act as vendor for the issuance. In the event a person accepts the authorization, he may be assigned a block of numbers and certificates which upon issue, in conformity with this chapter and with any rules ~~and regulations~~ of the department, shall be valid as if issued directly by the department.

(3) All records of the department made or kept pursuant to this section shall be public records.

(4) Each snowmobile must be registered before it leaves the premises at the time of sale from any retail snowmobile dealer.

(5) The purchaser of a snowmobile shall, within fifteen (15) days immediately after acquisition, make application to the department for transfer to him of the certificate of number issued to the snowmobile, giving his name, address and the number of the snowmobile and shall at the same time pay to the department a fee of three dollars ($3.00). Upon receipt of the application and fee, the department shall transfer the certificate of number issued for the snowmobile to the new owner or owners. Unless the application is made and fee paid within fifteen (15) days, the snowmobile shall be considered to be without a certificate of number and it shall be unlawful for any person to operate that snowmobile until the certificate is issued.

(6) No number other than the number issued to a snowmobile pursuant to this chapter shall be painted, attached, or otherwise displayed on the snowmobile, except a temporary number may be attached to identify a snowmobile for the purpose of racing or other sporting events.

(7) ~~The annual fee for certificates of number issued to dealers shall be fifteen dollars ($15.00), for demonstration purposes. Certificates issued to dealers shall at all times be displayed on snowmobiles being rented or demonstrated.~~

~~(8)~~ Resident and nonresident o~~O~~wners of snowmobiles used for rental purposes shall purchase certificates of number for ~~thirty~~ fifty dollars (~~$30~~50.00) and the certificates of number shall be displayed on the machine at all times.

Approved March 25, 1998.

CHAPTER 344
(H.B. No. 667, As Amended, As Amended in the Senate)

AN ACT

RELATING TO WATER RIGHTS FOR LIVESTOCK USE; AMENDING SECTION 42-113, IDAHO CODE, TO PROVIDE THE PRIORITY OF BENEFICIAL USE ASSIGNED TO LIVESTOCK WATERING ON FEDERALLY OWNED OR MANAGED LAND SHALL BE THE FIRST DATE OF BENEFICIAL USE FOR LIVESTOCK WATERING; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-113, Idaho Code, be, and the same is hereby amended to read as follows:

42-113. IN-STREAM AND OTHER WATER USE FOR LIVESTOCK ~~USE~~. (1) A permit may be issued, but shall not be required for appropriation of water for the in-stream watering of livestock. In the consideration of applications for permits to appropriate water for other purposes, the director of the department of water resources shall impose such reasonable conditions as are necessary to protect prior downstream water rights for in-stream livestock use, and in the administration of the water rights on any stream, the director, and the district court where applicable, shall recognize and protect water rights for in-stream livestock use, according to priority, as they do water rights for other purposes. As used in this section, the phrase "in-stream watering of livestock" means the drinking of water by livestock directly from a natural stream, without the use of any constructed physical diversion works.

(2) For rights to the use of water for in-stream or out-of-stream livestock purposes, associated with grazing on federally owned or managed land, established under the diversion and application to beneficial use method of appropriation, the priority date shall be the first date that water historically was used for livestock watering associated with grazing on the land, subject to the provisions of section 42-222(2), 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 25, 1998.

CHAPTER 345
(H.B. No. 735, As Amended)

AN ACT

RELATING TO THE TAYLOR GRAZING ACT; AMENDING TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 9, TITLE 25, IDAHO CODE, TO PROVIDE THAT GRAZING PREFERENCES ARE APPURTENANT TO BASE PROPERTY, TO PRO-

VIDE A CONTINUING RIGHT TO A GRAZING PREFERENCE, AND TO PROVIDE PENALTIES FOR INTERFERENCE WITH A GRAZING RIGHT.

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

SECTION 1. That Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 9, Title 25, Idaho Code, and to read as follows:

CHAPTER 9
TAYLOR GRAZING ACT PREFERENCES

25-901. GRAZING PREFERENCE APPURTENANT TO BASE PROPERTY. The United States congress, in fulfilling the constitutional obligation to manage the property of the United States, passed the Taylor grazing act in 1934. Through this act, congress acknowledged grazing preference rights and provided for adjudication of allotments on which the grazing preference right was exercised. Livestock ranches are bought, sold, traded and inherited with assurance that the appurtenant grazing preference rights will be transferred to the new base property owner. Therefore, a grazing preference right shall be considered an appurtenance of the base property through which the grazing preference is maintained.

25-902. CONTINUING RIGHT TO GRAZING PREFERENCE. When a grazing preference right is made use of through sale, rental or other equitable distribution of base property to another person with the view of receiving benefit of grazing under the appurtenant preference right, such person, his heirs, executors, administrators, successors or assigns, shall not thereafter, without his consent, be deprived of the same without just compensation.

25-903. INTERFERENCE WITH GRAZING RIGHT. Any person who willfully or negligently interferes with the legal herding, grazing or pasturing of livestock or with a fence, gate, water development or other range improvement on private base property or on an adjudicated allotment is guilty of a misdemeanor and additionally shall be subject to restitution under section 19-5304, Idaho Code.

Approved March 25, 1998.

CHAPTER 346
(H.B. No. 799)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR FISCAL YEAR 1999; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED;

EXPRESSING LEGISLATIVE INTENT WITH REGARD TO IDAHO'S HOME AND COMMUNITY-BASED SERVICES WAIVER; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE CHILD HEALTH INSURANCE PROGRAM.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Medical Assistance Services the following amounts to be expended according to the designated expense classes from the various funds listed for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
MEDICAL ASSISTANCE SERVICES:				
FROM:				
General Fund	$3,011,200	$ 3,460,000	$131,375,000	$137,846,200
Medical Assistance Fund			15,000	15,000
Liquor Control Fund			650,000	650,000
Cooperative Welfare Fund (Federal)	4,714,600	13,805,700	313,531,300	332,051,600
Cooperative Welfare Fund (Other)			22,200,600	22,200,600
TOTAL	$7,725,800	$17,265,700	$467,771,900	$492,763,400

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. There is hereby reappropriated to the Department of Health and Welfare for Medical Assistance Services any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for Medical Assistance Services for fiscal year 1998, to be used for nonrecurring expenditures only for the period July 1, 1998, through June 30, 1999. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for Medical Assistance Services is hereby authorized to expend all receipts collected in Medical Assistance Services as noncognizable funds for the period July 1, 1998, through June 30, 1999.

SECTION 5. It is the intent of the Idaho Legislature that individuals with developmental disabilities in Idaho who meet the service need of Intermediate Care Facilities (ICF-MR) be given the option of receiving quality services in settings of their choice, if those settings are no more expensive than ICF-MR. To enable individuals to access these services outside of facilities, we authorize lifting the

cap of 415 imposed on Idaho's home and community-based services (HCBS) waiver.

SECTION 6. It is the intent of the Idaho Legislature that the federal Title XXI Child Health Insurance Program, as appropriated in Section 1 of this act, not exceed $4.2 million in General Fund expenditures for the period July 1, 1998, through June 30, 1999. In addition, the Director of the Department of Health and Welfare is hereby authorized to control program costs by lowering or raising income eligibility criteria in order to stay within budget; but, under no circumstance shall the department exceed one hundred fifty percent (150%) of the federal poverty level that is used in determining eligibility without prior legislative approval.

Approved March 24, 1998.

CHAPTER 347
(H.B. No. 798)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF FAMILY AND COMMUNITY SERVICES FOR FISCAL YEAR 1999; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SUBSTANCE ABUSE PREVENTION.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Division of Family and Community Services the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILDREN'S SERVICES:					
FROM:					
General Fund	$ 6,713,300	$ 2,401,000		$ 973,400	$ 10,087,700
Cooperative Welfare Fund (Federal)	13,504,200	3,991,300		11,683,400	29,178,900
Cooperative Welfare Fund (Other)	378,500	794,000		977,200	2,149,700
TOTAL	$20,596,000	$7,186,300		$13,634,000	$ 41,416,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. DEVELOPMENTAL DISABILITIES SERVICES:					
FROM:					
General Fund	$10,378,900	$ 2,541,700		$ 2,555,900	$ 15,476,500
Medical Assistance Fund		3,500			3,500
Cooperative Welfare Fund (Federal)	12,604,900	4,045,600		1,471,200	18,121,700
Cooperative Welfare Fund (Other)	1,326,300	97,800		312,400	1,736,500
TOTAL	$24,310,100	$6,688,600		$ 4,339,500	$ 35,338,200
III. MENTAL HEALTH SERVICES:					
FROM:					
General Fund	$20,033,800	$ 2,029,900		$ 1,022,100	$ 23,085,800
Alcohol Intoxication Treatment Fund	529,400	249,000		1,313,100	2,091,500
Substance Abuse Treatment Fund				90,000	90,000
State Hospital South Endowment Fund	901,500	536,100		62,400	1,500,000
State Hospital North Endowment Fund	298,700	527,400	$89,400	44,000	959,500
Cooperative Welfare Fund (Federal)	508,000	3,719,200		3,285,100	7,512,300
Cooperative Welfare Fund (Other)	7,294,000	1,151,300		9,800	8,455,100
TOTAL	$29,565,400	$ 8,212,900	$89,400	$ 5,826,500	$ 43,694,200
GRAND TOTAL	$74,471,500	$22,087,800	$89,400	$23,800,000	$120,448,700

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. There is hereby reappropriated to the Department of Health and Welfare for the Division of Family and Community Services any unexpended and unencumbered balances of the Cooperative Welfare

Fund, as appropriated for the Division of Family and Community Services for fiscal year 1998, to be used for nonrecurring expenditures only for the period July 1, 1998, through June 30, 1999. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for the Division of Family and Community Services is hereby authorized to expend all receipts collected in the Division of Family and Community Services as noncognizable funds for the period July 1, 1998, through June 30, 1999.

SECTION 5. It is legislative intent that, of the total moneys appropriated for Substance Abuse Prevention in Section 1 of this act for Mental Health Services, $100,000 be used to purchase radio and television advertising, targeted to adolescents, with factual messages concerning alcohol, drugs, and tobacco. At least half of this amount is to be used for messages on alcohol.

Approved March 24, 1998.

CHAPTER 348
(H.B. No. 797)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE SELF-RELIANCE PROGRAMS FOR FISCAL YEAR 1999; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AND AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Self-Reliance Programs, the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
SELF-RELIANCE PROGRAMS:					
FROM:					
General Fund	$12,491,200	$ 5,837,700	$17,200	$23,266,100	$ 41,612,200
Cooperative Welfare Fund (Federal)	15,976,100	13,886,700	33,400	31,967,400	61,863,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Other)	647,300	3,948,100			4,595,400
TOTAL	$29,114,600	$23,672,500	$50,600	$55,233,500	$108,071,200

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. There is hereby reappropriated to the Department of Health and Welfare for the Self-Reliance Programs any unexpended and unencumbered balances of the Cooperative Welfare Fund, as appropriated for the Self-Reliance Programs for fiscal year 1998, to be used for nonrecurring expenditures only for the period July 1, 1998, through June 30, 1999. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for the Self-Reliance Programs is hereby authorized to expend all receipts collected in the Self-Reliance Programs as noncognizable funds for the period July 1, 1998, through June 30, 1999.

Approved March 24, 1998.

CHAPTER 349
(H.B. No. 796)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES FOR FISCAL YEAR 1999; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; AND SUPERSEDING THE PROVISIONS OF SECTION 57-1702, IDAHO CODE.

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 Public Health Services, the following amounts to be expended for the designated programs according to the designated expense classes from the various funds listed for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
PUBLIC HEALTH SERVICES:				
FROM:				
General Fund	$2,465,600	$1,500,600	$ 1,971,700	$ 5,937,900
Cancer Control Fund	20,400	122,400	257,200	400,000
Emergency Medical Services Fund I & II	1,047,500	568,600	191,700	1,807,800
Central Tumor Registry Fund			156,600	156,600
Food Safety Fund			412,000	412,000
Cooperative Welfare Fund (Federal)	3,158,000	3,188,600	20,350,200	26,696,800
Cooperative Welfare Fund (Other)	1,579,900	1,357,000	2,548,200	5,485,100
TOTAL	$8,271,400	$6,737,200	$25,887,600	$40,896,200

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. There is hereby reappropriated to the Department of Health and Welfare for Public Health Services any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for Public Health Services for fiscal year 1998, to be used for nonrecurring expenditures only for the period July 1, 1998, through June 30, 1999. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for Public Health Services is hereby authorized to expend all receipts collected in Public Health Services as noncognizable funds for the period July 1, 1998, through June 30, 1999.

SECTION 5. It is legislative intent that the appropriation of moneys from the Cancer Control Fund specifically supersedes the provisions of Section 57-1702, Idaho Code.

Approved March 24, 1998.

CHAPTER 350
(H.B. No. 795)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES, VETERANS SERVICES, AND INDEPENDENT COMMISSIONS AND COUNCILS FOR FISCAL YEAR 1999; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils the following amounts to be expended for the designated programs according to the designated expense classes from the various funds listed for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INDIRECT SUPPORT SERVICES:					
FROM:					
General Fund	$ 7,272,900	$ 7,647,700			$14,920,600
Cooperative Welfare Fund (Federal)	5,377,800	5,543,300			10 921,100
Cooperative Welfare Fund (Other)		483,000			483,000
TOTAL	$12,650,700	$13,674,000			$26,324,700
II. VETERANS SERVICES:					
FROM:					
General Fund	$ 1,451,500	$ 183,900		$ 50,700	$ 1,686,100
Idaho Veterans Home Fund	445,800	650,800		1,000	1,097,600
Cooperative Welfare Fund (Federal)	3,272,300	760,500			4,032,800
Cooperative Welfare Fund (Other)	4,280,100	1,486,600	145,100		5,911,800
TOTAL	$ 9,449,700	$ 3,081,800	$145,100	$ 51,700	$12,728,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Other)	647,300	136,800		9,900,000	10,684,100
Cooperative Welfare Fund (Federal)	15,578,700	12,064,600	729,900	28,867,900	57,241,100
TOTAL	$27,818,200	$18,355,000	$2,036,800	~~$62,364,000~~ 58,584,000	~~$110,574,000~~ 106,794,000

SECTION 2. That Section 1, Chapter 251, Laws of 1997, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Medical Assistance Services the following amounts to be expended according to the designated expense classes from the various funds listed for the period July 1, 1997, through June 30, 1998:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
MEDICAL ASSISTANCE SERVICES:				
FROM:				
General Fund	$2,433,200	$2,798,900	~~$117,336,700~~ 116,709,300	~~$122,568,800~~ 121,941,400
Cooperative Welfare Fund (Other)	999,600	122,800	17,057,800	18,180,200
Medical Assistance Fund			15,000	15,000
Liquor Control Fund			650,000	650,000
Cooperative Welfare Fund (Federal)	3,824,200	4,230,300	~~275,234,700~~ 273,010,500	~~283,289,200~~ 281,065,000
TOTAL	$7,257,000	$7,152,000	~~$410,294,200~~ 407,442,600	~~$424,703,200~~ 421,851,600

SECTION 3. That Section 1, Chapter 160, Laws of 1997, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils the following amounts to be expended for the designated programs according to the designated expense classes from the various funds listed for the period July 1, 1997, through June 30, 1998:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INDIRECT SUPPORT SERVICES:					
FROM:					
General Fund	$ 6,814,600	$ 6,940,200			$13,754,800
Cooperative Welfare Fund (Other)		544,600			544,600
Cooperative Welfare Fund (Federal)	4,686,500	4,913,100			9,599,600
TOTAL	$11,501,100	$12,397,900			$23,899,000
II. VETERANS SERVICES:					
FROM:					
General Fund	$ ~~1,717,600~~ 1,517,600	$ 199,800		$ 50,700	$ ~~1,960,100~~ 1,768,100
Cooperative Welfare Fund (Other)	4,280,100	1,486,600	$153,600		5,920,300
Idaho Veterans Home Income Fund		703,800		1,000	704,800
Cooperative Welfare Fund (Federal)	~~2,970,500~~ 3,178,500	380,500			~~3,359,000~~ 3,559,000
TOTAL	$ 8,976,200	$ 2,770,700	$153,600	$ 51,700	$11,952,200
III. INDEPENDENT COMMISSIONS AND COUNCILS:					
A. DOMESTIC VIOLENCE COUNCIL:					
FROM:					
Domestic Violence Fund	$ 92,900	$ 51,900	$ 900	$ 294,300	$ 440,000
Cooperative Welfare Fund (Federal)	10,000	20,000		738,900	768,900
Cooperative Welfare Fund (Other)		10,000			10,000
TOTAL	$ 102,900	$ 81,900	$ 900	$1,033,200	$ 1,218,900
B. DEVELOPMENTAL DISABILITIES COUNCIL:					
FROM:					
General Fund	$ 54,700	$ 15,500		$ 11,200	$ 81,400
Cooperative Welfare Fund (Federal)	228,400	83,700		136,100	448,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Other)		1,000			1,000
TOTAL	$ 283,100	$ 100,200		$ 147,300	$ 530,600
C. COUNCIL FOR THE DEAF AND HEARING-IMPAIRED:					
FROM:					
General Fund	$ 62,600	$ 31,300			$ 93,900
DIVISION TOTAL	$ 448,600	$ 213,400	$ 900	$1,180,500	$ 1,843,400
GRAND TOTAL	$20,925,900	$15,382,000	$154,500	$1,232,200	$37,694,600

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 24, 1998.

CHAPTER 352
(H.B. No. 467, As Amended, As Amended)

AN ACT

RELATING TO CIRCUIT BREAKER PROPERTY TAX RELIEF; AMENDING SECTION 63-701, IDAHO CODE, TO CLARIFY THAT INCOME SHALL NOT INCLUDE VETERAN'S DISABILITY PENSIONS RECEIVED BY A CLAIMANT OR A CLAIMANT'S SPOUSE PROVIDED THAT THE DISABILITY PENSION IS RECEIVED PURSUANT TO A SERVICE-CONNECTED DISABILITY OF A DEGREE OF FORTY PERCENT OR MORE.

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

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

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

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

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

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

(c) A widow or widower; or

(d) A disabled person who is recognized as disabled pursuant to 42 USC 423, 45 USC 228, 45 USC 231 or 5 USC 8337; or

(e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States veterans administration; or

(f) A person as specified in 42 USC 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or

(g) Blind.

(2) "Homestead" means the dwelling, owner-occupied by the claimant and used as the primary dwelling place of the claimant and occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. Homestead does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(3) "Household" means the claimant and any person or persons who live in the same dwelling, and share its furnishings, facilities, accommodations or expenses. The term includes any person owing a duty of support to the applicant pursuant to section 32-1002, Idaho Code, unless the person qualifies as a "nonhousehold member" pursuant to subsection (6) of this section. The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (9)(b) of this section.

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

(5) "Income" means the sum of federal adjusted gross income as defined in the internal revenue code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income, alimony, support money, income from inheritances, nontaxable strike benefits, the nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act, state unemployment insurance laws, and veterans' disability pensions and compensation, excluding rollovers as provided in section 402 or 403 of the internal revenue code), nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities, worker's compensation and the gross amount of loss of earnings insurance. It does not include capital gains, gifts from nongovernmental sources or inheritances. To the extent not reimbursed, cost of medical care as defined in section 213(d) of the internal revenue code, incurred by the household may be deducted from income. "Income" does not include veteran's disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse, provided however, that the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. Documentation of medical expenses may be required by the county assessor, board of equalization

and state tax commission. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant does not file a federal tax return the claimant's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant filed a federal tax return.

(6) "Nonhousehold member" means any nonspouse who lives in the claimant's dwelling for the purpose of providing protective oversight, caregiving, or personal care services to the claimant, or who is receiving disability benefits pursuant to subsection (1)(d) or (e) of this section.

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

(8) "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. "Owner" shall also include any person who as grantor created a revocable trust and named himself as beneficiary of that trust. "Owner" shall not include any person that otherwise occupies property as beneficiary of a trust. "Owner" includes a vendee in possession under a land sale contract. Any partial ownership shall be considered ownership for determining qualification for property tax reduction benefits, however, the amount of property tax reduction under section 63-704, Idaho Code, and rules promulgated pursuant to section 63-705, Idaho Code, shall be computed on the value of the claimant's partial ownership. "Partial ownership," for the purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person. The combined community property interests of both spouses shall not be considered partial ownership. The proportional reduction required under this subsection shall not apply to community property interests. Where title to property is held by a person who has died without timely filing a claim for property tax reduction, the estate shall be the "owner."

(9) (a) "Primary dwelling place" means the claimant's dwelling place on January 1 of the year for which the claim is made. The primary dwelling place is the single place where a claimant has his true, fixed and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. A claimant must establish the dwelling to which the claim relates as his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided on January 1 and:

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

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

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

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the property upon which the claimant makes application shall be deemed to be the claimant's primary dwelling place if the claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made

application to be occupied by persons paying a consideration to occupy the dwelling. A claimant's spouse who resides in a care facility shall be deemed to reside at the claimant's primary dwelling place and to be a part of the claimant's household. A care facility is a hospital, skilled nursing facility, intermediate care facility or intermediate care facility for the mentally retarded as defined in section 39-1301, Idaho Code, or a facility as defined in section 39-3302(15), Idaho Code, or a dwelling other than the one upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the application is made lives and receives help in daily living, protection and security.

Approved March 24, 1998.

CHAPTER 353
(S.B. No. 1335)

AN ACT

RELATING TO COURT ORDERS FORBIDDING CONTACT; AMENDING SECTION 18-920, IDAHO CODE, TO INCLUDE ADDITIONAL CRIMES FOR WHICH A COURT MAY ISSUE A NO CONTACT ORDER.

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

SECTION 1. That Section 18-920, Idaho Code, be, and the same is hereby amended to read as follows:

18-920. VIOLATION OF NO CONTACT ORDER. (1) When a person is charged with an offense under section 18-901, 18-903, 18-905, 18-907, 18-911, 18-913, 18-915, 18-918, ~~or~~ 18-919, 18-6710, 18-6711, 18-7905, or 39-6312, Idaho Code, or any other offense for which a court finds that a no contact order is appropriate, an order forbidding contact with another person may be issued. A no contact order may be imposed by the court or by Idaho criminal rule.

(2) A violation of a no contact order is committed when:

(a) A person has been charged under any offense defined in subsection (1) of this section; and

(b) A no contact order has been issued, either by a court or by an Idaho criminal rule; and

(c) The person charged has had contact with the stated person in violation of an order.

(3) A violation of a no contact order 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. No bond shall be set for this violation until the person charged is brought before the court which will set bond. Further, any such violation may result in the increase, revocation or modification of the bond set in the underlying charge for which the no contact order was imposed.

(4) A peace officer may arrest without a warrant and take into

custody a person whom the peace officer has probable cause to believe has violated a no contact order issued under this section if the person restrained had notice of the order.

Approved March 25, 1998.

CHAPTER 354
(S.B. No. 1400)

AN ACT

RELATING TO MALICIOUS INJURY TO PROPERTY; AMENDING SECTION 18-7001, IDAHO CODE, TO INCLUDE INJURY OR DESTRUCTION OF JOINTLY OWNED PROPERTY AND COMMUNITY PROPERTY WITHIN THE CRIME OF MALICIOUS INJURY TO PROPERTY AND TO SPECIFY MISDEMEANOR PENALTIES.

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

SECTION 1. That Section 18-7001, Idaho Code, be, and the same is hereby amended to read as follows:

18-7001. MALICIOUS INJURY TO PROPERTY. Every person who maliciously injures or destroys any real or personal property not his own, <u>or any jointly owned property without permission of the joint owner, or any property belonging to the community of the person's marriage,</u> in cases otherwise than such as are specified in this code, is guilty of a misdemeanor <u>and shall be punishable by imprisonment in the county jail for up to one (1) year or a fine of not more than one thousand dollars ($1,000), or both,</u> unless the damages caused by a violation of this section exceed one thousand dollars ($1,000) in value, in which case such person is guilty of a felony, and shall be punishable by imprisonment in the state prison for not less than one (1) year nor more than five (5) years, and may be fined not more than one thousand dollars ($1,000), or by both such fine and imprisonment.

Approved March 25, 1998.

CHAPTER 355
(S.B. No. 1444)

AN ACT

RELATING TO THE COMMISSION OF PARDONS AND PAROLE; AMENDING SECTION 20-210, IDAHO CODE, TO DELETE CERTAIN QUALIFICATIONS FOR MEMBERS OF THE COMMISSION.

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

SECTION 1. That Section 20-210, Idaho Code, be, and the same is hereby amended to read as follows:

20-210. COMMISSION OF PARDONS AND PAROLE -- APPOINTMENT -- QUALIFICATIONS -- TERMS -- SALARY -- STAFF. The board shall appoint a state commission of pardons and parole, each member of which shall be subject to the advice and consent of the senate, in this chapter referred to as the commission, which shall succeed to and have all rights, powers and authority of said board of pardons as are granted and provided by the provisions of the constitution of the state of Idaho.

The commission shall be composed of five (5) members~~,--with--due regard-for-their-experience,-knowledge-and-interest-in-sociology,-psychology,--rehabilitative--services--and-similar-pertinent-disciplines~~. The members shall serve at the pleasure of the board and not more than three (3) members shall be from any one (1) political party.

The members of the commission shall be appointed for the purposes of organization as follows: One (1) member is to be appointed for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years and one (1) for five (5) years, with each succeeding vacancy to be filled by the board for terms of five (5) years; vacancies in the commission for unexpired terms shall be by appointment by the board for the remainder of the term and all appointees may be reappointed.

The commission shall also act as the advisory commission to the board on matters of adult probation and parole and may exercise such powers and duties in this respect as are delegated to it by the board.

The commission shall meet at such times and places as determined to be necessary and convenient, or at the call of the executive director and in any event no less than quarterly.

The members shall be compensated as provided by section 59-509(i), Idaho Code, when attending quarterly meetings conducted at a date and time separate from a hearing session or other meetings approved by the executive director. The members shall receive compensation of one hundred fifty dollars ($150) per member per day when conducting parole, commutation, pardon, revocation or other hearings, and shall be reimbursed for actual and necessary expenses subject to the limitations provided in section 67-2008, Idaho Code.

The board will liberally allow the reasonable payment for services of such technical and professional advice and consultation as the commission may require. The board shall appoint the executive director for the commission. The executive director shall be the full-time employee who shall report to, serve at the pleasure of, and be compensated as determined by the board. The executive director shall be the official representative for the commission, shall be responsible for the managing and administration of daily commission business and shall schedule hearing sessions at times convenient to the members of the commission. For each scheduled session, the executive director shall designate one (1) of the members of the commission as the presiding officer for conducting the hearings. The executive director may hire such staff and employees as are approved by the board. The executive director shall also have such other duties and responsibilities as the board shall assign.

Approved March 25, 1998.

CHAPTER 356
(S.B. No. 1484, As Amended)

AN ACT

RELATING TO RIGHTS OF CRIME VICTIMS; AMENDING SECTION 19-5306, IDAHO CODE, TO CLARIFY THAT NOTICE OF A HEARING MUST BE GIVEN TO CRIME VICTIMS BY THE PROSECUTING ATTORNEY WHEN A RELEASE ON PROBATION IS BEING CONSIDERED FOLLOWING A PERIOD OF RETAINED JURISDICTION.

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

SECTION 1. That Section 19-5306, Idaho Code, be, and the same is hereby amended to read as follows:

19-5306. RIGHTS OF VICTIM DURING INVESTIGATION, ~~AND~~ PROSECUTION, AND DISPOSITION OF THE CRIME. (1) Each victim of a criminal or juvenile offense shall be:

(a) Treated with fairness, respect, dignity and privacy throughout the criminal justice process;

(b) Permitted to be present at all criminal justice proceedings or juvenile proceedings including probation proceedings;

(c) Entitled to a timely disposition of the case;

(d) Given prior notification of trial court, appellate, probation and parole proceedings and, upon request, to information about the sentence, incarceration, placing on probation or release of the defendant;

(e) Heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration, placing on probation or release of the defendant unless manifest injustice would result;

(f) Afforded the opportunity to communicate with the prosecution in criminal or juvenile offenses, and be advised of any proposed plea agreement by the prosecuting attorney prior to entering into a plea agreement in criminal or juvenile offenses involving crimes of violence, sex crimes or crimes against children;

(g) Allowed to refuse an interview, ex parte contact or other request by the defendant or any other person acting on behalf of the defendant, unless such request is authorized by law;

(h) Consulted by the presentence investigator during the preparation of the presentence report and have included in that report a statement of the impact which the defendant's criminal conduct had upon the victim and shall be allowed to read, prior to the sentencing hearing, the presentence report relating to the crime. The victim shall maintain the confidentiality of the presentence report, and shall not disclose its contents to any person except statements made by the victim to the prosecuting attorney or the court;

(i) Assured the expeditious return of any stolen or other personal property by law enforcement agencies when no longer needed as evidence;

(j) Notified whenever the defendant or suspect is released or escapes from custody. When release is ordered prior to final con-

viction, notice to the victim shall be given by the law enforcement authority from whose custody the defendant was released. When the release is granted subsequent to a final conviction, notice shall be given to the victim by the law enforcement authority from whose custody the defendant was released unless release is granted by the commission of pardons and parole, in which case the commission shall notify the victim. When a release on probation is being considered following a period of retained jurisdiction, notice of the hearing shall be given to the victim by the prosecuting attorney.

(2) Upon the filing of a criminal complaint or juvenile petition, the prosecuting attorney shall inform the victim of the various opportunities provided by this section. The victim may exercise any of the rights provided by this section by completing a written request on a form provided by the prosecuting attorney to the clerk of the district court. The clerk thereafter shall notify the appropriate authorities of the victim's requests. Notice thereafter shall be given to the victim at the address provided unless the victim subsequently provides a different address. The victim's address shall be kept confidential by the court except for carrying out the provisions of this chapter.

(3) The provisions of this section shall apply equally to the immediate families of homicide victims or immediate families of victims of such youthful age or incapacity as precludes them from exercising these rights personally. The court may designate a representative from the immediate family to exercise these rights on behalf of a deceased, incapacitated, or minor victim.

(4) Nothing in this section shall be construed to authorize a court to dismiss a case, to set aside or void a finding of guilt or an acceptance of a plea of guilty, or to obtain appellate, habeas corpus, or other relief from any criminal judgment, for a violation of the provisions of this section; nor be construed as creating a cause of action for money damages, costs or attorney's fees against the state, a county, a municipality, any agency, instrumentality or person; nor be construed as limiting any rights for victims previously conferred by statute; nor be construed to require the court appointment of legal counsel or the payment of transportation costs.

(5) As used in this section:

(a) "Victim" is an individual who suffers direct or threatened physical, financial or emotional harm as the result of the commission of a crime or juvenile offense;

(b) "Criminal offense" is any charged felony or a misdemeanor involving physical injury, or the threat of physical injury, or a sexual offense;

(c) "Juvenile offense" is charged conduct that is a violation of law that brings a juvenile within the purview of chapter 5, title 20, Idaho Code, and which conduct committed by a juvenile would be a felony if committed by an adult.

Approved March 25, 1998.

CHAPTER 357
(S.B. No. 1500, As Amended, As Amended in the House)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-401, IDAHO CODE, TO DELETE REFERENCES TO SENIOR RESIDENTS, BLIND PERSONS AND DISABLED PERSONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 36-403, IDAHO CODE, TO PROVIDE FOR EXPIRATION AND DURATION OF CERTAIN PERMITS; AMENDING SECTION 36-406, IDAHO CODE, TO DECREASE THE FEE FOR SENIOR RESIDENT COMBINATION LICENSES, TO PROVIDE FOR A LICENSE TO BE ISSUED TO QUALIFIED DISABLED PERSONS AND TO PROVIDE A FEE; AND AMENDING SECTION 36-409, IDAHO CODE, TO PROVIDE THAT ANY PERSON SEVENTY YEARS OF AGE OR OLDER WHO HOLDS A SENIOR RESIDENT COMBINATION LICENSE MAY BE ISSUED A BEAR, DEER OR ELK TAG WITHOUT CHARGE.

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

SECTION 1. That Section 36-401, Idaho Code, be, and the same is hereby amended to read as follows:

36-401. HUNTING, TRAPPING, FISHING -- LICENSE REQUIREMENT -- EXCEPTIONS. No person shall hunt, trap, or fish for or take any wild animal, bird or fish of this state, without first having procured a license as hereinafter provided. Provided that no license shall be required:

(a) 1. For children under the age of fourteen (14) years who are residents of this state to fish during the open season therefor.

2. For nonresident children under the age of fourteen (14) years to fish during the open season therefor provided they are accompanied by the holder of a valid fishing license, and provided further that any fish caught by such nonresident children shall be included in the bag and possession limit of such license holder.

3. For resident children under the age of twelve (12) years to hunt, take or kill predatory, unprotected birds and animals by means other than with firearms.

4. For resident children under the age of fourteen (14) years to trap muskrats from irrigation ditches or property on which they live during the open season.

5. For children under the age of eighteen (18) <u>years</u> who are residents of a licensed foster home, a foster group home, or a child welfare institution to fish during the open season therefor, provided they are accompanied and supervised by the director, officer, or other employee of the facility where the child resides.

(b) For any person to fish on a "free fishing day" as may be designated by the commission.

(c) ~~Senior-Residents.-For-"senior--residents"--age--seventy--(70) years--or--older-who-are-holders-of-a-"senior-resident-permit"-to-hunt and-fish-during-the-open-season.~~

~~(d)--Blind-Persons.-For-resident-blind-persons-who-are-holders--of a-"permit-for-the-blind"-to-fish-during-the-open-season.~~

~~(e)~~ Institutional Inmates. For any inmate of the state hospital

north, state hospital south, Idaho state school and hospital, and state veterans homes to fish during open seasons, provided said inmate has a permit therefor from the director. The director is authorized to issue such permits upon the request of the head of the respective institution having custody of said inmate upon a showing that the institution recommends the issuance of such permit and will assume full responsibility for and control over said inmate while using said permit.

(~~f~~d) Resident Military Personnel. For resident persons engaged in the military service of the United States, while on temporary furlough or leave, upon receipt of a temporary permit from the director, to hunt and fish during the open season.

~~(g)--Disabled-Persons.-For-any-resident-person-who-is--permanently and--totally-disabled-as-certified-by-a-physician-licensed-to-practice in-the-United-States-or-Canada,-to-hunt-and-fish-during-the-open--season,-providing-such-person-has-obtained-a-permit-from-the-director.~~

(~~h~~e) State Juvenile Corrections Center Students. For students of the state juvenile corrections center, under the supervision of an officer of the center, to fish during the open season.

(~~i~~f) Boy Scouts. For boy scouts who are official participants in attendance at national or international encampments at Farragut State Park to take fish during the encampment period from Lake Pend Oreille in such areas and such numbers as may be designated by the commission.

(~~j~~g) Participants in Fish and Game Sponsored Functions. For persons who are official participants in attendance at official department sponsored functions including clinics, courses or other educational events, while under the supervision of a department approved instructor for the function, to fish during any open season, provided that the instructor has been issued an educational fishing permit by the director.

(~~k~~h) Nothing contained herein shall be construed to prohibit citizens of the United States who are residents of the state of Idaho from carrying arms for the protection of life and property.

SECTION 2. That Section 36-403, Idaho Code, be, and the same is hereby amended to read as follows:

36-403. EXPIRATION DATES -- LICENSES, TAGS AND PERMITS. (a) Annual Licenses -- Tags and Permits. All annual hunting and fishing licenses shall expire December 31 of the year for which they are valid. Trapping licenses shall expire on June 30 next following date of issuance. All tags and permits issued pursuant to the provisions of this chapter shall be valid only during the time that the corresponding basic license is valid.

(b) Senior Resident, Blind Person and Disabled Person Permits. All free s~~S~~enior resident, blind person and disabled person permits issued prior to July 1, 1998, shall expire ~~and-must-be-renewed-five (5)-years-from-date-of-issuance.-Said-permit--shall--become--null--and void--if-the-holder-fails-to-maintain-continuous-bona-fide-Idaho-residency.-All-free-senior-resident-permits--issued--informally--prior--to January--1,--1972,--shall--be-valid-until-the-expiration-date-shown-on said-permits~~ on December 31, 1998. Thereafter, all senior resident, blind person and disabled person permits shall be an annual license.

SECTION 3. That Section 36-406, Idaho Code, be, and the same is hereby amended to read as follows:

36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES. (a) Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license of the first class may be had by a person possessing the qualifications therein described on payment of twenty dollars ($20.00) for a combined fishing and hunting license entitling the purchaser to hunt and fish for game animals, game birds, unprotected and predatory animals and fish of the state, fifteen dollars ($15.00) for a fishing license entitling the purchaser to fish in the public waters of the state, six dollars ($6.00) for a hunting license entitling the purchaser to hunt game animals, game birds, unprotected and predatory animals of the state, and twenty-five dollars ($25.00) for a trapping license entitling the purchaser to trap furbearers, unprotected and predatory animals of the state.

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

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

(d) Senior Resident Combination. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of ~~four~~ <u>three</u> dollars ($4<u>3</u>.00) for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

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

(f) A license of the eighth class may be had by a person possessing the qualifications therein described on payment of sixty-nine dollars ($69.00) entitling the purchaser to hunt and fish for game animals, game birds, fish, and unprotected and predatory animals of the state. With payment of the required fee, a person shall receive with this license a deer tag, an elk tag, a bear tag, a turkey tag, a mountain lion tag, an archery hunt permit, a muzzleloader permit, an upland game permit, a migratory waterfowl stamp, a steelhead trout permit and an anadromous salmon permit. The director shall promptly transmit to the state treasurer all moneys received pursuant to this subsection for deposit as follows:

(i) Three dollars ($3.00) in the set-aside account for the pur-

poses of section 36-111(1)(a), Idaho Code;

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

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

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

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

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

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

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

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

SECTION 4. That Section 36-409, Idaho Code, be, and the same is hereby amended to read as follows:

36-409. GAME TAGS -- ARCHERY PERMITS -- FEES -- PENALTY. (a) Resident Game Tags. A resident who has obtained a permit to hunt, as provided in section 36-401, Idaho Code, or has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein shall be eligible to receive a resident game tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, or turkey in accordance with the laws of this state and rules promulgated by the commission; provided further, that ~~the holder of a senior resident permit~~ any person seventy (70) years of age or older who holds a senior resident combination license, may be issued a bear, deer or elk tag without charge; provided further, that resident game tags may be issued only to those persons who meet residency requirements of subsection (r) of section 36-202, Idaho Code.

(b) Nonresident Game Tags. A nonresident who has purchased a hunting license, as provided in section 36-407(a), Idaho Code, or has obtained a license to hunt, as provided in section 36-406(e), Idaho Code, upon payment of the fees provided herein, shall be eligible to receive a nonresident tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear or turkey in accordance with the laws of this state and rules promulgated by the

commission.

(c) Schedule of Game Tag Fees.

Game	Resident	Nonresident
Moose	$60.00	$900.00
Bighorn Sheep	60.00	900.00
Mountain Goat	60.00	900.00
Elk	15.00	325.00
Deer	9.00	225.00
Antelope	26.50	225.00
Mountain Lion	25.00	225.00
Bear	6.00	225.00
Turkey	6.00	35.00
Deer, Elk and Bear "Pak"	29.00	not applicable

(d) Game Tags Required -- To Be Endorsed on License. The appropriate tag must be had for the hunting or taking of each and every one (1) of the aforementioned wildlife. Provided, however, that the requirements for a mountain lion tag or a bear tag, as to different periods of time and areas of the state, shall be determined and specified by the commission. All of said tags are to bear and have serial numbers to be endorsed on the purchaser's license by the vendor at the time of sale.

(e) Game Tag to Be Validated and Attached to Carcass. As soon as any person kills any wildlife for which a tag is required, said tag, belonging to him, must be validated and attached to said wildlife in a manner provided by commission regulation.

(f) Archery Permits. In addition to meeting the license and tag requirements provided in this chapter, any persons participating in any controlled or general game season which has been specifically designated as an archery hunt must have in his possession an archery hunt permit which may be purchased at a fee of seven dollars and fifty cents ($7.50).

(g) Muzzleloader Permit. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as a muzzleloader hunt must have in his possession a muzzleloader permit which may be purchased at a fee of seven dollars and fifty cents ($7.50).

(h) Upland Game Bird Stamp. The commission may, under rules as it may prescribe, issue an upland game bird stamp that must be purchased by all persons over sixteen (16) years of age prior to hunting upland game birds, provided that a stamp shall not be required to hunt forest grouse (blue, ruffed or spruce), sharp-tailed grouse, sage grouse, or turkey. The fee for such a stamp shall be five dollars ($5.00) and the proceeds from the sale of such stamps shall be utilized for the acquisition of state and federal lands or interests of less than fee simple in private lands and the development, management, improvement, sale or exchange of upland game bird habitat in accordance with Idaho fish and game commission order number 95-07. This subsection shall be null and void and of no force and effect on and after July 1, 2000.

(i) Hound Hunter Permit. Any person using a dog for the purpose of hunting or for taking, as defined in section 36-202, Idaho Code, big game or furbearing animals must have in his possession a valid

hound hunter permit which may be purchased for a fee of ten dollars ($10.00).

(j) Nonresident Bird of Prey Capture Permit. The commission may, under rules as it may prescribe, issue a nonresident bird of prey capture permit. This capture permit may be purchased by any licensed, nonresident falconer for capturing birds of prey in Idaho. The fee for the permit shall be one hundred dollars ($100) and the permit shall be issued under the condition that the nonresident's home state allows reciprocal raptor capturing privileges for Idaho falconers. Any funds in excess of those required to issue and administer nonresident capture permits shall be used to issue and administer any resident falconry program established by the commission.

(k) Wildlife Management Area (WMA) Pheasant Permit. The commission may, under rules as it may prescribe, issue a wildlife management area pheasant permit that must be purchased by all persons over sixteen (16) years of age prior to hunting pheasants on state wildlife management areas designated by the commission. The fee for the permit shall be ten dollars ($10.00).

Approved March 25, 1998.

CHAPTER 358
(S.B. No. 1513, As Amended in the House)

AN ACT

RELATING TO SALARIES OF MEMBERS OF THE PUBLIC UTILITIES COMMISSION, THE STATE TAX COMMISSION AND THE INDUSTRIAL COMMISSION; REPEALING SECTION 59-510, IDAHO CODE; AMENDING SECTION 61-215, IDAHO CODE, TO INCREASE SALARIES OF MEMBERS OF THE PUBLIC UTILITIES COMMISSION AND TO DELETE AN ARCHAIC REFERENCE; AMENDING SECTION 63-102, IDAHO CODE, TO INCREASE SALARIES OF MEMBERS OF THE STATE TAX COMMISSION; AND AMENDING SECTION 72-503, IDAHO CODE, TO INCREASE SALARIES OF MEMBERS OF THE INDUSTRIAL COMMISSION, TO DELETE AN ARCHAIC REFERENCE AND TO PROVIDE THAT EACH MEMBER SHALL DEVOTE FULL TIME TO THE PERFORMANCE OF HIS DUTIES.

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

SECTION 1. That Section 59-510, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 61-215, Idaho Code, be, and the same is hereby amended to read as follows:

61-215. SALARIES OF PUBLIC UTILITIES COMMISSIONERS. Each member of the public utilities commission shall devote full time to the performance of his duties and shall each receive an annual salary as follows: ~~Commencing--on-July-1,-1993,-an-annual-salary-of-sixty-thousand dollars-($60,000);-commencing-on-July-1,-1994,--an--annual--salary--of sixty-five-thousand-dollars-($65,000);-and-commencing-on-July-1,-1995, an--annual-salary-of-seventy-thousand-dollars-($70,000),-notwithstand-~~

~~ing-the-provisions-of-section-59-510,-Idaho-Code~~ Commencing on July 1, 1998, an annual salary of seventy-three thousand dollars ($73,000), and shall be paid from sources set by the legislature.

SECTION 3. That Section 63-102, Idaho Code, be, and the same is hereby amended to read as follows:

63-102. ORGANIZATION -- CHAIRMAN -- COMPENSATION -- QUORUM -- HEARINGS. (1) A member of the state tax commission shall be appointed by the governor, to serve at his pleasure, as chairman. Each member of the state tax commission shall devote full time to the performance of duties and shall receive an annual salary of ~~fifty~~sixty-five thousand dollars ($5~~6~~5,000). ~~notwithstanding-the-provisions-of-section--59-510, Idaho-Code.~~

(2) A majority of the state tax commission shall constitute a quorum for the transaction of business. The state tax commission may delegate to any member of the commission or to its employees, the power to make investigations and hold hearings at any place it may deem proper, and such other matters as will facilitate the operations of the commission.

(3) The chairman of the state tax commission shall delegate to each commissioner the responsibility for policy management and oversight of one (1) or more of the taxes collected and/or activities supervised or administered by the commission. The state tax commission shall perform the duties imposed upon it by law and shall adopt all rules by majority decision.

In any case in which the state tax commission sits as an appellate body upon an appeal from a tax decision from one (1) of the various administrative units subject to its supervision, the state tax commissioner charged with responsibility for policy management and oversight of the tax in controversy shall not vote upon the appeal but may advise the remaining members of the commission on the technical aspects of the problems before them.

(4) The chairman shall be the chief executive officer and administrative head of the state tax commission and shall be responsible for, or may assign responsibility for, all personnel, budgetary and/or fiscal matters of the state tax commission.

SECTION 4. That Section 72-503, Idaho Code, be, and the same is hereby amended to read as follows:

72-503. SALARY. The annual salary of each member of the industrial commission shall be ~~sixty-six~~ seventy-three thousand ~~seven-hundred-ninety-four~~ dollars ($~~66,794~~73,000), ~~notwithstanding--the--provisions--of--section--59-510,-Idaho-Code,~~ and shall be paid from sources set by the legislature. Each member of the industrial commission shall devote full time to the performance of his duties.

Approved March 25, 1998.

CHAPTER 359
(S.B. No. 1516)

AN ACT

RELATING TO ESCAPE FROM A JAIL OR PRISON; AMENDING SECTION 18-2505, IDAHO CODE, TO PROVIDE THAT ESCAPE FROM A PRIVATE PRISON SHALL CONSTITUTE A CRIME.

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

SECTION 1. That Section 18-2505, Idaho Code, be, and the same is hereby amended to read as follows:

18-2505. ESCAPE BY ONE CHARGED WITH, CONVICTED OF, OR ON PROBATION FOR A FELONY -- ESCAPE BY JUVENILE. (1) Every prisoner charged with, convicted of, or on probation for a felony who is confined in any jail or prison including the state penitentiary <u>or any private prison,</u> or who while outside the walls of such jail or prison in the proper custody of any officer or person, or while in any factory, farm or other place without the walls of such jail or prison, who escapes or attempts to escape from such officer or person, or from such jail or prison, or from such factory, farm or other place without the walls of such jail or prison, shall be guilty of a felony, and upon conviction thereof, any such second term of imprisonment shall commence at the time he would otherwise have been discharged.

(2) Any person under the age of eighteen (18) charged with, found to have committed, or on probation for an offense which would be a felony if committed by an adult who is confined in a juvenile detention facility or other secure or nonsecure facility for juveniles and who escapes or attempts to escape from the facility or from the lawful custody of any officer or person shall be subject to proceedings under chapter 5, title 20, Idaho Code, for an offense which would be a felony if committed by an adult. If the juvenile is or has been proceeded against as an adult, pursuant to sections 20-508 or 20-509, Idaho Code, the juvenile shall be guilty of a felony for a violation of this section and shall be subject to adult criminal proceedings.

Approved March 25, 1998.

CHAPTER 360
(S.B. No. 1517)

AN ACT

RELATING TO PRIVATE PRISON FACILITIES; AMENDING TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 8, TITLE 20, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR THE APPLICATION OF THE CHAPTER, TO PROVIDE FOR THE CONSTRUCTION OR OPERATION OF PRIVATE PRISON FACILITIES IN A COUNTY OR A CITY PURSUANT TO CONTRACT OR WRITTEN APPROVAL, TO PROVIDE THE AUTHORITY OF A COUNTY OR CITY TO HOUSE INMATES IN A PRIVATE PRISON FACILITY, TO PROVIDE FOR CONTRACTS

BETWEEN A COUNTY OR A CITY AND A PRIVATE PRISON CONTRACTOR, TO PROVIDE REQUIREMENTS FOR PRIVATE PRISON FACILITIES, TO PROVIDE FOR HOUSING OUT-OF-STATE INMATES IN PRIVATE PRISON FACILITIES, TO PROVIDE FOR MONITORING OF PRIVATE PRISONS BY A COUNTY OR A CITY, TO PROVIDE NOTICE REQUIREMENTS IN THE EVENT OF A RIOT, REBELLION, ESCAPE OR OTHER EMERGENCY SITUATION AT A PRIVATE PRISON FACILITY AND TO REQUIRE REIMBURSEMENT FOR COSTS INCURRED BY RESPONDING GOVERNMENTAL ENTITIES, TO PROVIDE FOR CRIMES COMMITTED IN A PRIVATE PRISON FACILITY, TO PROVIDE FOR OTHER CODE REFERENCES AND TO PROVIDE FOR ENFORCEMENT, AVAILABLE REMEDIES AND A CIVIL PENALTY.

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

SECTION 1. That Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 8, Title 20, Idaho Code, and to read as follows:

CHAPTER 8
PRIVATE PRISON FACILITIES

20-801. DEFINITIONS. In this chapter:

(1) "Contracting authority" means a board of county commissioners or the governing body of a city.

(2) "Governmental entity" means a state, county, city, municipal corporation or other political subdivision of the state, or a territory of the United States and any political subdivision thereof.

(3) "Inmate" means a person arrested for, charged with or convicted of a criminal offense and confined in or subject to confinement in a correctional or detention facility.

(4) "Private prison contractor" means any person, organization, partnership, joint venture, corporation or other business entity engaged in the site selection, design, design/building, acquisition, construction, construction/management, financing, maintenance, leasing, leasing/purchasing, management or operation of private prison facilities or any combination of these services.

(5) "Private prison facility" means a correctional facility constructed or operated by a private prison contractor for the confinement of inmates.

20-802. APPLICATION OF CHAPTER. The provisions of this chapter shall not apply to contracts of the state of Idaho for the housing of inmates in a private prison facility or local government detention facility.

20-803. PRIVATE PRISON CONTRACTORS -- CONTRACT OR APPROVAL REQUIRED TO CONSTRUCT AND OPERATE PRIVATE PRISON FACILITIES AND TO HOUSE OUT-OF-STATE INMATES. (1) A private prison contractor may not construct or operate a private prison facility in this state except pursuant to a contract with the state of Idaho, as authorized in chapter 2, title 20, Idaho Code, or pursuant to a contract with, or with the express written approval of, a county or city of this state, as authorized by the provisions of this chapter.

(2) A private prison contractor may not house in a private prison

facility in this state inmates who have been convicted of offenses committed against the laws of a governmental entity other than the state of Idaho and its political subdivisions except pursuant to a contract with, or with the express written approval of, the board of county commissioners of the county in which the facility is located or the governing body of the city in which the facility is located, and only if the requirements of section 20-807, Idaho Code, are met.

20-804. AUTHORITY OF COUNTY OR CITY TO HOUSE INMATES IN A PRIVATE PRISON FACILITY. (1) A board of county commissioners or the governing body of a city may authorize the housing of minimum to medium security inmates of the county or the city in a private prison facility pursuant to contract with the private prison contractor or with the express written approval of the board of county commissioners or the governing body of the city.

(2) A board of county commissioners may not contract with a private prison contractor in which a commissioner or an elected or appointed peace officer or other county official has a financial interest. The governing body of a city may not contract with a private prison contractor in which the mayor, a member of the city council, or any appointed peace officer or other city official has a financial interest. A contract made in violation of the provisions of this subsection is void.

20-805. CONTRACTS WITH A PRIVATE PRISON CONTRACTOR. (1) A board of county commissioners or the governing body of a city, may enter into a contract with a private prison contractor for the site selection, design, design/building, acquisition, construction, construction/management, financing, maintenance, leasing, leasing/purchasing, management or operation of private prison facilities or any combination of these services, subject to the following requirements and limitations:

(a) Any request for proposals, any original contract, any contract renewal, any price or cost adjustment or any other amendment to any contract for the incarceration of individuals in a private prison facility shall be reviewed and approved by the contracting authority;

(b) No contract authorized by the provisions of this section shall be awarded until the private prison contractor demonstrates to the satisfaction of the contracting authority that the contractor possesses the necessary qualifications and experience to provide the services specified in the contract; that the contractor can provide the necessary qualified personnel to implement the terms of the contract; that the financial condition of the contractor is such that the terms of the contract can be fulfilled; that the contractor has the ability to comply with applicable court orders and corrections standards; and that the proposed private prison facilities or the correctional services proposed by the contractor meet constitutional minimums;

(c) The contract shall provide for the assumption of liability by the private prison contractor for all claims arising from the services performed under the contract by the private prison contractor;

(d) No contract authorized by the provisions of this section shall be awarded until the private prison contractor demonstrates to the satisfaction of the contracting authority that the contractor can obtain insurance or provide self-insurance for the contractor and its officers, guards, employees and agents against all claims, including claims based on violations of civil rights, arising from the services performed under the contract by the private contractor and to indemnify the contracting authority against all claims, including claims based on violations of civil rights, arising from the services performed under the contract and to compensate the contracting authority for any losses incurred due to the operation of private prison facilities;

(e) If the contract includes construction, the contract shall require a performance bond approved by the contracting authority that is adequate and appropriate for the proposed construction contract;

(f) Except as otherwise permitted under the constitution or laws of the state of Idaho, no contract awarded pursuant to this section shall provide for the encumbrance of funds beyond the amount available for a fiscal year.

(2) Any contract between a contracting authority and a private prison contractor, whereby the contractor provides for the housing, care, and control of inmates in a facility operated by the contractor, shall contain, in addition to other provisions, terms and conditions:

(a) A requirement that the contractor provide the services in a facility which meets correctional standards satisfying constitutional minimums, state and federal laws and applicable court orders;

(b) If a private prison contractor enters into a contract with a board of county commissioners for a private prison facility to be located on private land within the limits of any city, it shall be required that the contractor obtain written authorization from the governing body of the city in which the facility is to be located;

(c) If a private prison facility is to be located on land owned by the county or the city or other publicly owned land which is not subject to real property taxes, the contract may provide for the payment of a fee to the contracting authority which shall be in lieu of property taxes, as compensation for the costs of regulating, monitoring and providing services to the facility;

(d) A requirement that the private prison contractor provide training to its personnel to a level acceptable to the contracting authority. The provisions of this section shall not be construed to confer peace officer status upon any employee of the private prison contractor or to authorize the use of firearms except to prevent escape from the facility or from custody while being transported to or from the facility or to prevent an act which would cause death or serious bodily injury to any person. The provisions of this section shall not be construed to confer county or city employee status upon any employee of the private prison contractor.

(e) A requirement that the private prison contractor, its officers, guards, employees, and agents immediately notify the county sheriff and any other law enforcement or other governmental enti-

ties, agencies or personnel named in the contract or required to be informed as provided in this chapter of any riot, rebellion, escape or other emergency situation occurring at the facility, and a requirement that the private prison contractor reimburse costs as provided in section 20-809, Idaho Code.

(3) Contracts awarded under the provisions of this section shall, at a minimum, comply with the following:

(a) Provide for internal and perimeter security to protect the public, employees and inmates;

(b) Provide that the private prison contractor shall not benefit financially from the labor of inmates nor shall any inmate ever be placed in a position of authority over another inmate. Any profits realized from the operation of a prison enterprise program shall revert to the contracting authority;

(c) Impose discipline on inmates only in accordance with applicable rules, policies and procedures satisfying constitutional minimums, state and federal laws and applicable court orders;

(d) Provide proper food, clothing, housing and medical care as provided for in the contract.

(4) The contracting authority or its designee, as provided in the contract, shall monitor the performance of the private prison contractor. Included in the powers and responsibilities of the contracting authority or its designee, when acting as the contract monitor of the private prison contract are:

(a) A determination if the requirements of the contract are being satisfactorily performed;

(b) A determination whether the private prison contractor and its personnel are complying with the provisions of this chapter;

(c) A determination if applicable ordinances, policies and procedures of the contracting authority are being followed by the private prison contractor and its personnel;

(d) A determination whether the facility is being operated in a manner which adequately safeguards and protects the safety of the public;

(e) The enactment of ordinances or the adoption of written policies or procedures interpreting or making specific application of the provisions of this section.

20-806. PRIVATE PRISON FACILITIES -- REQUIREMENTS. A private prison contractor operating a private prison facility within a county or a city of this state shall comply with the following requirements:

(1) The facility shall meet correctional standards satisfying constitutional minimums, state and federal laws and applicable court orders;

(2) If the private prison facility is located on land owned by the county or the city or other publicly owned land which is not subject to real property taxes, the county or the city, if the facility is located within the limits of the city, may require the private prison contractor to pay fees to the county or the city in lieu of property taxes, as compensation for the costs to the county or the city of regulating, monitoring and providing services to the facility;

(3) The facility must provide internal and perimeter security to protect the public, employees and inmates;

(4) The private prison contractor shall impose discipline on inmates only as permitted by correctional standards satisfying constitutional minimums, state and federal laws, and applicable court orders;

(5) The private prison contractor shall provide inmates with proper food, clothing, housing and medical care in accordance with constitutional minimums, state and federal laws, and applicable court orders.

20-807. OUT-OF-STATE INMATES. (1) A board of county commissioners may authorize a private prison contractor operating a private prison facility within the county and the governing body of a city may authorize a private prison contractor operating a private prison facility within the city to house minimum to medium security inmates convicted of offenses committed against the laws of a governmental entity other than the state of Idaho or its political subdivisions.

(2) Out-of-state inmates may be housed in a private prison facility only if the following requirements are met:

(a) The custody level capacity and availability in the private prison facility is adequate to house the inmates;

(b) The private prison contractor and the board of county commissioners or the governing body of the city, in cooperation with state and local law enforcement agencies, and other appropriate governmental entities and agencies, have developed a written plan explaining the procedure to be used to coordinate law enforcement and other necessary activities in response to any riot, rebellion, escape or other emergency situation occurring in the facility.

(c) The private prison facility satisfies standards for the care, custody, treatment and control of inmates which comply with constitutional minimums, state and federal laws and applicable court orders and any additional standards required by the county or the city;

(d) Each inmate to be released from custody must be released in the sending governmental entity's jurisdiction;

(e) Before transferring the inmate to Idaho, the receiving facility shall review:

(i) All records concerning the sending governmental entity's classification of the inmate, including records relating to the inmate's conduct while confined in the sending governmental entity; and

(ii) Appropriate medical information concerning the inmate, including certification of tuberculosis screening or treatment and certification that the inmate has undergone HIV testing with negative results.

(f) The sending governmental entity will not transfer and the receiving facility will not accept an inmate who has a record of institutional violence involving the use of a deadly weapon or a pattern of violence while confined in a facility within the sending governmental entity's jurisdiction or a record of escape or attempted escape from secure custody;

(g) The receiving facility will determine the inmate's custody level in order to ensure that the custody level assignments for the facility as a whole are compatible with the construction secu-

rity level availability in the facility. If it is determined by the county or the city or the private prison contractor that the inmate poses a substantial risk to the community, prison population or staff or should be classified as maximum security, the inmate will be returned to the sending governmental entity; and

(3) The private prison contractor shall reimburse costs as specified in section 20-809, Idaho Code.

(4) The provisions of this section shall not be construed as a limitation upon the authority of the state of Idaho, a county or a city of this state to incarcerate, detain or place a person convicted of an offense committed against the laws of the United States, a territory of the United States, another state or a political subdivision thereof in a correctional facility, county jail or other governmental detention facility in this state pursuant to the laws of the United States, the state of Idaho or other applicable law.

20-808. MONITORING PRIVATE PRISONS. In addition to and without limiting the authority provided in this chapter or by contract entered into pursuant to section 20-805, Idaho Code, or as provided by other applicable law, the board of county commissioners, the county sheriff, the prosecuting attorney or the authorized agents and employees of a county in which a private prison facility is located and the governing board of a city, the city attorney, law enforcement personnel of the city and other authorized agents and employees of the city in which a private prison facility is located, shall be authorized to monitor the facility and to enter the facility and the grounds thereof for the following purposes:

(1) To determine if the private prison contractor, its personnel and the private prison facility are in compliance with the provisions of this chapter and any ordinances or written policies and procedures of the county or city governing the private prison facility;

(2) To investigate any criminal conduct which has occurred, is occurring or is alleged to have occurred in the facility;

(3) To determine whether the facility is being operated in a manner which adequately safeguards and protects the safety of the public.

20-809. RIOT, REBELLION, ESCAPE OR EMERGENCY SITUATION -- NOTICE -- REIMBURSEMENT FOR COSTS. (1) The private prison contractor, its officers, guards, employees, and agents shall immediately notify the county sheriff and, if the facility is located within the limits of a city, the city law enforcement agency, along with any other law enforcement or other governmental entities, agencies or personnel which the county or the city may require to be informed, of any riot, rebellion or other emergency situation occurring at the facility.

(2) In the event of an escape by an inmate from a private prison facility to which this chapter applies, the private prison contractor must contact the county sheriff and, if the facility is located within the limits of a city, the city law enforcement agency, and any other governmental entities or agencies which the county or city may require to be informed, upon receiving knowledge of the escape, but may attempt to apprehend the inmate while the search or pursuit is on the private prison contractor's private property. In the event that the escaping inmate flees from the private prison contractor's private

property, the sheriff of the county, in cooperation with city law enforcement as appropriate, shall organize and have jurisdiction over the pursuit and apprehension of the inmate.

(3) A private prison contractor shall reimburse an Idaho governmental entity for costs incurred by the entity in responding to any riot, rebellion, escape or other emergency situation occurring at the facility. The private prison contractor shall also reimburse an Idaho governmental entity for costs incurred by the entity with respect to the investigation, prosecution, detention or appellate litigation of an inmate charged with a crime resulting from a riot, rebellion, escape or other criminal conduct committed within the private facility.

20-810. CRIMES COMMITTED IN A PRIVATE PRISON FACILITY. Any offense, which if committed in a county jail or other governmental detention facility would be a crime, including escape, shall also be a crime if committed by or with regard to inmates housed in a private prison facility.

20-811. OTHER CODE REFERENCES. Any reference in the Idaho Code to imprisonment in a county jail or other governmental detention facility, or incarceration under the control and custody of the county sheriff shall be interpreted to include incarceration in a private prison facility.

20-812. ENFORCEMENT -- AVAILABLE REMEDIES -- CIVIL PENALTY. (1) The county prosecuting attorney shall have authority to enforce the provisions of this chapter, and any county ordinances enacted, or written policies or procedures adopted by the county with respect to the operation of a private prison facility in the county, or any contract entered into between a board of county commissioners and a private prison contractor by civil action and may seek all available civil remedies including injunction. If the prosecuting attorney prevails in the action, the private prison contractor shall be liable to the county for attorney's fees and costs of suit. The action shall be brought in the district court of the county in which the private prison facility is located or is proposed to be located.

(2) The city attorney shall have authority to enforce the provisions of this chapter, and any city ordinances enacted or written policies or procedures adopted by the governing body of the city with respect to the operation of a private prison facility within the city, or any contract entered into between the governing body of a city and a private prison contractor by civil action and he may seek all available civil remedies including injunction. If the city attorney prevails in the action, the private prison contractor shall be liable for attorney's fees and costs of suit. The action shall be brought in the district court of the county in which the private prison facility is located or is proposed to be located.

(3) In addition to any other remedies, a private prison contractor constructing or operating a private prison facility in this state in violation of the provisions of this chapter, or any ordinances enacted or written policies or procedures adopted by a county or city governing the construction or operation of a private prison facility,

or a contract entered into pursuant to this chapter shall be subject to a civil penalty in an amount not to exceed five thousand dollars ($5,000) for each separate violation or for each day of a continuing violation.

Approved March 25, 1998.

CHAPTER 361
(S.B. No. 1530)

AN ACT

RELATING TO PARKS AND RECREATION; AMENDING SECTION 67-4223, IDAHO CODE, TO PROVIDE THAT THE PARK AND RECREATION BOARD MAY DISCOUNT FEES IN ORDER TO OFFER USE INCENTIVES TO GENERATE ADDITIONAL REVENUE FOR OPERATION OF THE STATE PARK SYSTEM.

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

SECTION 1. That Section 67-4223, Idaho Code, be, and the same is hereby amended to read as follows:

67-4223. POWERS OF BOARD. The park and recreation board shall:

(a) Adopt, amend or rescind rules as may be necessary for the proper administration of the provisions of sections 67-4218, et seq., Idaho Code, and the use and protection of park and recreational areas subject to its jurisdiction. A violation of any rule promulgated by the board pursuant to this provision which concerns the use and protection of park and recreation areas is an infraction.

(b) Make expenditures for the acquisition, care, control, supervision, improvement, development, extension and maintenance of all lands under the control of the department and to make arrangements, agreements, contracts or commitments, which may or may not involve expenditures or transfer of funds, with the head of any state institution, department or agency for the improvement or development of lands or properties under the control of the board, or any other department or agency of the state of Idaho.

(c) Appoint advisory, local and regional park and recreational councils, to consider, study and advise in the work of the department for the extension, development, use and maintenance of any areas which are to be considered as future park or recreational sites or which are designated as park recreational areas.

(d) Appoint a six (6) member recreational vehicle advisory committee, who shall be compensated as provided in section 59-509(f), Idaho Code, and act in an advisory capacity to the board on matters relating to the development and improvement of recreational vehicle related facilities and services as provided in subsection (e) of this section. Each member of the advisory committee shall be representative of recreational vehicle users with one (1) from each of the districts described in section 67-4221, Idaho Code. The terms of appointment shall be concurrent with the incumbent park and recreation board member from the respective districts.

(e) Administer the funds derived from the recreational vehicle account established in section 49-448, Idaho Code, to provide financial assistance in the form of grants to public entities for the acquisition, lease, development, improvement, operations and maintenance of facilities and services designed to promote the health, safety and enjoyment of recreational vehicle users. Up to fifteen percent (15%) of the recreational vehicle account generated each year may be used by the department to defray recreational vehicle program administrative costs. Any moneys unused at the end of the fiscal year shall be returned to the state treasurer for deposit in the recreational vehicle account.

(f) Cooperate with the United States and its agencies and local governments of the state for the purpose of acquiring, supervising, improving, developing, extending or maintaining lands which are designated as state parks, state monuments or state recreational areas and to secure agreements or contracts with the United States and its agencies or local governments of the state for the accomplishment of the purposes of sections 67-4218, et seq., Idaho Code.

(g) Construct, lease or otherwise establish public park or recreational privileges, facilities and conveniences and to operate said recreational services and to make and collect reasonable charges for their use or to enter into contracts for their operation. The board may discount fees in order to offer use incentives to generate additional revenue for operation of the state park system. The net proceeds derived shall be credited to the park and recreation account established in section 67-4225, Idaho Code, and are hereby specifically appropriated to defray the cost of the public park or recreational services. The department is specifically authorized to enter into contracts with the United States and its agencies which require that the state expend any excess of revenue above expenses for improvements of the recreational or park area from which the excess was derived.

(h) Prepare, maintain and keep up-to-date a comprehensive plan for the provision of the outdoor recreational resources of the state; to develop, operate and maintain outdoor recreational areas and facilities of the state, and to acquire lands, waters and interests in lands and waters for such areas and facilities.

(i) Apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program respecting outdoor recreation. It may enter into contracts and agreements with the United States or any appropriate agency thereof, keep financial and other records relating thereto and furnish to appropriate officials and agencies of the United States reports and information as may be reasonably necessary to enable officials and agencies to perform their duties under such programs. In connection with obtaining the benefits of any program, the park and recreation board shall coordinate its activities with and represent the interests of all agencies and subdivisions of the state having interests in the planning, development and maintenance of outdoor recreational resources and facilities.

(j) Obligate the state regarding the responsible management of any federal funds transferred to it for the purpose of any federal enactment and, in accordance with the exercise of this responsibility,

the state hereby consents to be sued in any United States district court for the recovery of any federal funds that the responsible federal official, department or agency finds have been misused or disposed of contrary to the agreement with the federal official, department or agency or contrary to the provisions of federal enactment or applicable federal regulations.

(k) Cooperate and contract with and receive and expend aid, donations and matching funds from the government of the United States, receive and expend funds from the STORE and to receive and expend donations from other sources to acquire, develop, operate and maintain outdoor recreational areas and facilities of the state and, when authorized or directed by any act of congress or any rule or regulation of any agency of the government of the United States, to expend funds donated or granted to the state of Idaho by the federal government for such purposes.

Provided, however, the park and recreation board shall make no commitment or enter into any agreement pursuant to an exercise of authority under sections 67-4218, et seq., Idaho Code, until it has determined that sufficient funds are available to it for meeting the state's share, if any, of project costs. It is legislative intent that, to the extent as may be necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under authority of sections 67-4218, et seq., Idaho Code, such areas and facilities shall be publicly maintained for outdoor recreational purposes. The park and recreation board may enter into and administer agreements with the United States or any appropriate agency thereof for planning, acquisition and development projects involving participating federal-aid funds or state funds on behalf of any subdivision or subdivisions of this state. Provided, that the subdivision or subdivisions give necessary assurances to the park and recreation board that they have available sufficient funds to meet their shares, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the expense of the subdivision or subdivisions for public outdoor recreational use.

(l) Establish, develop, supervise and maintain through cooperative agreement, lease, purchase or other arrangement the Idaho recreation trail system, with the advice of the coordinator created in section 67-4233, Idaho Code, and consistent with the goals of recreation, transportation and public access to outdoor areas.

Approved March 25, 1998.

CHAPTER 362
(S.B. No. 1535)

AN ACT

RELATING TO PROPERTY TAX REPLACEMENT IN SCHOOL FUNDING; AMENDING SECTION 33-1002D, IDAHO CODE, TO STRIKE REFERENCE TO SALES TAX RECEIPTS AND PROVIDE THAT APPROPRIATIONS SHALL BE MADE FOR PROPERTY TAX REPLACEMENT; AND AMENDING SECTION 63-3638, IDAHO CODE, TO

STRIKE DISTRIBUTION OF SALES TAX RECEIPTS FOR THE PURPOSE OF PROPERTY TAX RELIEF AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. 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~~ appropriations made for that purpose, 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~~ appropriations made for that purpose, 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 prop-

erty 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 63-903(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 2. That Section 63-3638, Idaho Code, be, and the same is hereby amended to read as follows:

63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this chapter, except as may otherwise be required in section 63-3203, Idaho Code, shall be distributed by the tax commission as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(b) Five hundred thousand dollars ($500,000) per year is continuously appropriated and shall be distributed to the permanent building account, provided by section 57-1108, Idaho Code.

(c) Four million eight hundred thousand dollars ($4,800,000) per year is continuously appropriated and shall be distributed to the water pollution control account established by section 39-3605, Idaho Code.

(d) (1) An amount equal to the sum required to be certified by the chairman of the Idaho housing and finance association to the state tax commission pursuant to section 67-6211, Idaho Code, in each year is continuously appropriated and shall be paid to any capital reserve fund, established by the Idaho housing and finance association pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing and finance association shall be repaid for distribution under the provisions of this section, subject to the provisions of section 67-6215, Idaho Code, by the Idaho housing and finance association, as soon as possible, from any moneys available therefor and in excess of the amounts which the association determines will keep it self-supporting.

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

~~(3) An amount required by the provisions of section 33-1002D,~~

~~Idaho Code.~~

(e) Six ~~per cent~~ percent (6%) is hereby appropriated and shall be paid to the county treasurer of each county in amounts to be determined as follows:

(1) Each taxing district other than school districts shall be entitled to a base share of sales tax moneys equal to the amount distributed to that district for the fourth calendar quarter of 1979. The computation shall not include any distributions made to the credit of either the former county school levy or the state water pollution control levy. The percentage so determined for each taxing district shall be applied each quarter to the above percentage of sales tax. The resulting sums shall be paid to the county treasurer of each county for distribution to each taxing district, except school districts, which received sales tax moneys in 1979. Whenever a taxing district is dissolved, the dissolved district's share of sales moneys shall be credited continuously to the county current expense fund.

(2) Whenever the amount of nonschool district sales tax moneys distributed exceeds in any quarter the total amount of moneys distributed to nonschool districts for the base quarter, which is the fourth calendar quarter of 1979, by ten ~~per cent~~ percent (10%), or more, the excess of the base quarter shall be paid to the county treasurer of each county for distribution to each taxing district in the county, except school districts, in the following manner.

The state tax commission shall compute the percentage that the average amount of taxes collected from assessments for the years 1965, 1966 and 1967 on the personal property described as business inventory in subsections (1) and (2) of section 63-602W, Idaho Code, for each county bears to the average total amount of taxes collected from assessments for said years on the personal property described as business inventory in subsections (1) and (2) of section 63-602W, Idaho Code, for all counties in the state. The percentage so determined for each county shall be applied to the sales tax distributed under this subsection and the resulting sum shall be paid to the county treasurer of each county for distribution to each taxing district, except school districts, in the county as follows:

(i) Each year the county commissioners in each county shall take the tax charge, applicable to the current property roll equalized by county commissioners sitting as a board of equalization, of each taxing district within the county, except school districts, and divide it by the total current tax charges applicable to the current property roll of all taxing districts, except school districts, within said county and the resulting percentages shall be applied to the county's proportionate share of said sales tax account and the resulting amount shall be distributed to each taxing district in the county periodically but not less frequently than quarterly by the county auditor and applied by such taxing districts in the same manner and in the same proportions as revenues from property taxation.

(ii) The moneys set aside and appropriated to the county treasurer out of the sales tax account above may be consid-

ered 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~~ <u>percent</u> (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~~ <u>percent</u> (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~~ <u>percent</u> (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment purposes for that city bears to the preceding year's market value for assessment purposes for all cities within the state.

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

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

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

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

Approved March 25, 1998.

CHAPTER 363
(S.B. No. 1555)

AN ACT

RELATING TO THE APPROPRIATION FOR PUBLIC SCHOOL SUPPORT FOR FISCAL YEAR 1999; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO EXPENDITURES FROM STATE SOURCES; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING A TOTAL AMOUNT FROM THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING MONEYS FOR THE UNEMPLOYMENT INSURANCE PROGRAM; AMENDING SECTION 33-1004E, IDAHO CODE, INCREASING THE BASE SALARY FOR SALARY-BASED APPORTIONMENT; PROVIDING THAT THE STATE DEPARTMENT OF EDUCATION SHALL HAVE CERTAIN AUTHORITY, EXPRESSING THAT $1,000,000 BE DISTRIBUTED FOR READING IMPROVEMENT; EXPRESSING LEGISLATIVE INTENT THAT $3,135,000 FOR ONGOING EXPENDITURES AND $7,000,000 FOR ONE-TIME EXPENDITURES BE EXPENDED FOR THE PUBLIC SCHOOL TECHNOLOGY GRANT PROGRAM, $265,000 FOR THE STATE LIBRARY, AND THAT THE IDAHO COUNCIL FOR TECHNOLOGY IN LEARNING WILL DEVELOP STATEWIDE PERFORMANCE INDICATORS; EXPRESSING LEGISLATIVE INTENT THAT NOT MORE THAN $140,000 BE EXPENDED BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION; EXPRESSING LEGISLATIVE INTENT THAT $250,000 BE DISTRIBUTED AS GRANTS TO TEACHERS OR GROUPS OF TEACHERS; EXPRESSING LEGISLATIVE INTENT THAT $3,000,000 BE DISTRIBUTED FOR SUPPORT OF PROGRAMS FOR STUDENTS WITH NON-ENGLISH OR LIMITED ENGLISH PROFICIENCY; EXPRESSING LEGISLATIVE INTENT THAT $375,000 BE DISTRIBUTED FOR A TEACHER-MENTOR PROGRAM; EXPRESSING LEGISLATIVE INTENT THAT $5,000,000 OF THE MONEYS ACCRUING PURSUANT TO SECTIONS 63-2506 AND 63-2552A, IDAHO CODE, PLUS $500,000 OF THE INCOME TAXES COLLECTED FROM LOTTERY WINNINGS BE EXPENDED FOR THE IDAHO SAFE AND DRUG-FREE SCHOOLS PROGRAM; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE DISTRIBUTION OF FUNDS FOR THE IDAHO SAFE AND DRUG-FREE SCHOOLS PROGRAM; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO FEATURES OF THE IDAHO SAFE AND DRUG-FREE SCHOOLS PROGRAM; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE EXPENDITURE OF $1,000,000; EXPRESSING LEGISLATIVE INTENT THAT $500,000 BE DISTRIBUTED FOR TRAINING TO SERVE THE NEEDS OF GIFTED/TALENTED STUDENTS AND PROVIDING HOW THE FUNDS SHALL BE ALLOCATED; EXPRESSING LEGISLATIVE INTENT THAT $30,000 BE EXPENDED TO CONTINUE THE WORK OF THE READING STUDY COMMITTEE; EXPRESSING LEGISLATIVE INTENT THAT $200,000 BE EXPENDED TO PROVIDE EDUCATIONAL PROGRAMS TO SPECIAL NEEDS STUDENTS FOR THE 1997-98 AND THE 1998-99 SCHOOL YEARS.

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

SECTION 1. It is legislative intent that the following amounts shall be expended from state sources for public schools for the period July 1, 1998, through June 30, 1999:

FROM:		
General Fund		$741,660,000
Dedicated Funds:		
Endowment Funds/Lands Receipts	$39,900,000	
Mineral Royalties	2,000,000	
Liquor Fund	1,200,000	
Cigarette Tax	5,000,000	
Lottery Income Tax	500,000	
Miscellaneous Receipts	2,100,000	
Fund Balance	3,500,000	
Total Dedicated Funds		$ 54,200,000
TOTAL		$795,860,000

SECTION 2. There is hereby appropriated from the General Fund for public schools, the following amount to be transferred to the Public School Income Fund for the period July 1, 1998, through June 30, 1999:

FROM:	
General Fund	$741,660,000

SECTION 3. There is hereby appropriated from the Public School Income Fund to be expended for the Educational Support Program pursuant to law and the provisions of this act, not to exceed $795,860,000 for the period July 1, 1998, through June 30, 1999.

SECTION 4. There is hereby appropriated from the Public School Income Fund the amount necessary for the Unemployment Insurance Program to be expended according to Section 72-1349A, Idaho Code, for the period July 1, 1998, through June 30, 1999.

SECTION 5. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

1. To determine the apportionment for instructional staff, first determine the district average experience and education index by placing all eligible district certificated instructional employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the 1994-95 school year, and shall receive their actual index but not more than the state average plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district instructional staff index shall be multiplied by the instructional base salary of ~~$19,715~~20,306. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004 2., Idaho Code. The resulting amount is the district's salary-based apportionment for instructional staff.

2. To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on

the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the school year 1994-95, and shall receive their actual index but not more than the state average index plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district administrative staff index shall be multiplied by the base salary of $28,843~~9~~,708. The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004 3., Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3. To determine the apportionment for classified staff, multiply $15,~~300~~759 by the district classified staff allowance determined as provided in section 33-1004 4., Idaho Code. The amount so determined is the district's apportionment for classified staff.

4. The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections 1., 2. and 3., of this section, plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

SECTION 6. The Department of Education shall have the authority to monitor and evaluate the use of funds appropriated to public school districts for enhancement programs.

SECTION 7. It is legislative intent that $1,000,000 of the moneys appropriated in Section 3 of this act shall be distributed for reading improvement. The $1,000,000 for reading improvement is to be used as follows: $500,000 for K-6 reading training for teachers which includes phonics, and $500,000 for reading recovery K-6 or other locally developed programs which address improvements in reading skills for students. The reading improvement shall be distributed pro rata based on each district's prior year K-6 student enrollment compared to the total prior year K-6 student enrollment statewide.

SECTION 8. It is legislative intent that $10,400,000 of the moneys appropriated in Section 3 of this act shall be expended by the Superintendent of Public Instruction as follows: $3,135,000 for ongoing expenditures and $7,000,000 for one-time expenditures for the Public School Technology Grant Program and $265,000 for the State Library to negotiate a statewide license through the Libraries Linking Idaho (LiLI) program upon direction of the Idaho Council for Technology in Learning, in accordance with Section 33-4806, Idaho Code. The Idaho Council on Technology in Learning will develop statewide performance indicators to address the legislative intent of the impact, costs and benefits of the projects funded by the Idaho Council for Technology in Learning. The performance indicators will be used to track progress and funds spent to achieve the performance indicators. A report of the costs to attain the performance indicators will be provided to the Legislature and the State Board of Education annually.

SECTION 9. It is legislative intent that an amount not to exceed $140,000 of the $10,400,000 referenced in Section 8 of this act shall

be expended by the Superintendent of Public Instruction for staff support and various expenses related to the Idaho Council for Technology in Learning as approved by the State Board of Education.

SECTION 10. It is legislative intent that $250,000 of the moneys appropriated in Section 3 of this act be distributed by the Superintendent of Public Instruction as grants to teachers or groups of teachers for the development of creative and innovative instructional methods or curriculum.

SECTION 11. It is legislative intent that $3,000,000 of the moneys appropriated in Section 3 of this act be distributed for support of programs for students with non-English or limited-English proficiency. The funding for limited-English proficiency programs shall be allocated to school districts pro rata based upon the population of limited-English proficient students under criteria established by the State Department of Education.

SECTION 12. It is legislative intent that $375,000 of the moneys appropriated in Section 3 of this act shall be distributed by the State Superintendent of Public Instruction for a teacher-mentor program. Payment shall be calculated on the number of first-year teachers and teachers returning after an absence of five (5) years or more. Funds may be used to provide mentor stipends, release time, and professional development opportunities.

SECTION 13. It is legislative intent that of the amount appropriated in Section 3 of this act, $5,000,000 of the moneys accruing pursuant to Sections 63-2506 and 63-2552A, Idaho Code, plus $500,000 of the income taxes collected from lottery winnings, pursuant to section 67-7439, Idaho Code, shall be expended by the Superintendent of Public Instruction for the Idaho Safe and Drug-Free Schools Program for the period July 1, 1998, through June 30, 1999.

SECTION 14. It is legislative intent that the funds for the Idaho Safe and Drug-Free Schools Program referenced in Section 13 of this act shall be distributed as follows: $100,000 may be utilized by the Superintendent of Public Instruction for program administration, technical assistance and evaluation. Of the remaining amount, ninety percent (90%) shall be distributed to each school district through a combination of a base amount of $1,500 and a prorated amount based on the prior year's average daily attendance. Of the remaining ten percent (10%), $80,000 shall be distributed on a one-time basis to the Commission on Hispanic Affairs and used to encourage and direct Hispanic youth away from the habitual use of tobacco, alcohol, and other drugs by developing programs for schools, families and communities, with the remainder used to make discretionary grants as determined by the Drug-Free Schools and Communities Advisory Board.

SECTION 15. It is legislative intent that the Idaho Safe and Drug-Free Schools Program shall include the following:

(1) Districts will develop a policy and plan which will provide a guide for their substance abuse program.

(2) Districts will have an advisory board to assist each district in making decisions relating to the program.

(3) The districts' substance abuse programs will be comprehensive to meet the needs of all students. This will include prevention programs, student assistance programs that address early identification and referral, and aftercare.

(4) Districts shall submit an annual evaluation of their program to the State Department of Education as to the effectiveness of their programs.

SECTION 16. It is legislative intent that $1,000,000 of the moneys appropriated in Section 3 of this act shall be distributed for the following:

(1) Training of regular classroom teachers in working with children with disabilities;

(2) Employing and training aides to assist regular classroom teachers in working with children with disabilities;

(3) Employing substitute teachers whose employment allows regular classroom teachers to be involved in college planning, parent contact, Individual Education Plan (IEP) development, curriculum modification, or other necessary activities directly related to meeting the needs of students in regular education classrooms;

(4) Moneys in this section shall be distributed pro rata to the districts as follows: fifty percent (50%) on the basis of the prior year's December first child count and fifty percent (50%) on the basis of the prior year's average daily attendance.

It is legislative intent that these funds be used to supplement rather than supplant existing efforts in the training of regular classroom teachers and the employment and training of aides; and that the State Department of Education shall create a one-page report to be provided to the Legislature showing current individual district expenditures in this area, as well as a breakdown of how these appropriated moneys were spent.

It is further legislative intent that these funds shall not be used in any calculation or report to the federal government that obligates a future appropriation of this amount or any other amount.

SECTION 17. It is legislative intent that $500,000 of the moneys appropriated in Section 3 of this act be distributed to train general education teachers, gifted/talented (G/T) facilitators, administrators and/or parents to better meet the need of gifted/talented students. One-half (1/2) of these funds shall be allocated pro rata based on each district's prior year total student enrollment compared to the prior year total statewide enrollment. One-half (1/2) of these funds shall be allocated based on the number of gifted/talented students identified and served as indicated on the prior year's December first child count. No district will receive less than $300. Funds shall be distributed upon submission and approval of an application submitted to the State Department of Education demonstrating how in-service training will establish or improve identification and service of gifted/talented students in the five (5) mandated talent areas.

SECTION 18. It is legislative intent that $30,000 of the moneys

appropriated in Section 3 of this act be expended by the Superintendent of Public Instruction to continue the work of the Reading Study Committee. It is intended that a report and recommendations be provided to the First Regular Session of the Fifty-fifth Idaho Legislature.

SECTION 19. It is legislative intent that not more than $200,000 of the moneys appropriated in Section 3 of this act shall be distributed by the State Department of Education to private nonprofit agencies for the unfunded educational costs of Idaho students in state custody. Students must be residentially placed by state agencies in a licensed children's treatment facility or group home in Idaho during the 1997-98 and 1998-99 school years, and educated in a nonsectarian accredited school operated by the same treatment facility or group home. The agency's school must be accredited for the 1997-98 and 1998-99 school years. For students eligible for special education, the school must have a special education program approved by the State Department of Education. The per student amount shall not exceed sixty-five dollars ($65.00) per day for one hundred eighty (180) days.

Approved March 25, 1998.

CHAPTER 364
(S.B. No. 1556)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 1999; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Attorney General the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. STATE LEGAL SERVICES:				
FROM:				
General Fund	$ 3,317,300	$ 402,900	$70,000	$ 3,790,200
Federal Grant Fund	262,300	38,700		301,000
Consumer Protection Fund	223,400	85,700		309,100
State Legal Services Fund	6,787,000	153,100		6,940,100
TOTAL	$10,590,000	$ 680,400	$70,000	$11,340,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
II. SPECIAL LITIGATION:				
FROM:				
General Fund		$2,339,400		$ 2,339,400
GRAND TOTAL	$10,590,000	$3,019,800	$70,000	$13,679,800

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

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than one hundred seventy-one and nine-tenths (171.9) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 25, 1998.

CHAPTER 365
(S.B. No. 1557)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 1999; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho School for the Deaf and the Blind the following amounts, to be expended from the listed funds for the period July 1, 1998, through June 30, 1999:

FROM:	
General Fund	$6,081,400
Idaho School for the Deaf and the Blind Income Fund	150,500
Federal Grant Fund	111,000
Miscellaneous Revenue Fund	98,900
TOTAL	$6,441,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the

Idaho School for the Deaf and the Blind is authorized no more than one hundred twenty and two-hundredths (120.02) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the State Board of Education for the Idaho School for the Deaf and the Blind, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any funds appropriated by Section 1, Chapter 186, Laws of 1997, to be used for nonrecurring expenditures only for the period July 1, 1998, through June 30, 1999.

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

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1998, is zero, the reappropriation granted in Section 3 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1998, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the Idaho School for the Deaf and the Blind bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 25, 1998.

CHAPTER 366
(S.B. No. 1558)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 1999; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Secretary of State, the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 388,300	$ 303,100			$ 691,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. CENTRALIZED UNIFORM COMMERCIAL CODE:					
FROM:					
UCC Administrative Fund	$ 981,000	$ 366,900	$175,500		$1,523,400
III. COMMISSION ON UNIFORM LAWS:					
FROM:					
General Fund		$ 20,100			$ 20,100
IV. COMMISSION ON THE ARTS:					
FROM:					
General Fund	$ 268,400	$ 226,400	$ 13,000	$361,700	$ 869,500
Federal Grant Fund	196,600	116,600		175,700	488,900
Miscellaneous Revenue Fund		109,100		16,200	125,300
TOTAL	$ 465,000	$ 452,100	$ 13,000	$553,600	$1,483,700
GRAND TOTAL	$1,834,300	$1,142,200	$188,500	$553,600	$3,718,600

SECTION 2. It is legislative intent that an amount not to exceed $1,000 of the amount appropriated in Section 1 of this act, may be used at the discretion of the 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-two (42) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 25, 1998.

CHAPTER 367
(S.B. No. 1347, As Amended)

AN ACT

RELATING TO HOUSING AUTHORITIES; AMENDING SECTION 31-4204, IDAHO CODE, TO PROVIDE THAT HOUSING AUTHORITIES MAY CONTRACT WITH OTHER HOUSING AUTHORITIES FOR SERVICES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-4205, IDAHO CODE, TO PROVIDE THAT LOCAL GOVERNMENTAL ENTITIES MAY JOINTLY CREATE BY RESOLUTION A HOUSING AUTHORITY; AMENDING SECTION 31-4210, IDAHO CODE, TO PROVIDE THAT HOUSING AUTHORITY COMMISSIONERS MAY EMPLOY AN EXECUTIVE DIRECTOR

WHO SHALL SERVE AS AN AT-WILL EMPLOYEE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-4211, IDAHO CODE, TO PROVIDE THAT HOUSING AUTHORITY COMMISSIONERS MAY BE REMOVED BY MAJORITY VOTE OF COUNTY COMMISSIONERS AT ANY TIME WITH OR WITHOUT CAUSE AND TO PROVIDE FOR NOTICE OF REMOVAL; AMENDING SECTION 31-4221, IDAHO CODE, TO PROVIDE FOR THE FILING BY HOUSING AUTHORITIES OF MEETING MINUTES, FINANCIAL REPORTS, COPIES OF CLAIMS AND CAUSES OF ACTION AGAINST THE HOUSING AUTHORITY, AND EMPLOYEE POLICY HANDBOOKS WITH THE COUNTY CLERK; AMENDING SECTION 50-1904, IDAHO CODE, TO PROVIDE THAT HOUSING AUTHORITIES MAY CONTRACT WITH OTHER HOUSING AUTHORITIES FOR SERVICES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-1905, IDAHO CODE, TO PROVIDE THAT LOCAL GOVERNMENTAL ENTITIES MAY JOINTLY CREATE BY RESOLUTION A HOUSING AUTHORITY; AMENDING SECTION 50-1910, IDAHO CODE, TO PROVIDE FOR CITY COUNCIL APPROVAL, TO PROVIDE THAT HOUSING AUTHORITY COMMISSIONERS MAY EMPLOY AN EXECUTIVE DIRECTOR WHO SHALL SERVE AS AN AT-WILL EMPLOYEE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-1911, IDAHO CODE, TO PROVIDE THAT HOUSING AUTHORITY COMMISSIONERS MAY BE REMOVED BY THE MAYOR, WITH APPROVAL OF THE CITY COUNCIL AT ANY TIME WITH OR WITHOUT CAUSE AND TO PROVIDE FOR NOTICE OF REMOVAL; AND AMENDING SECTION 50-1921, IDAHO CODE, TO PROVIDE FOR THE FILING BY HOUSING AUTHORITIES OF MEETING MINUTES, FINANCIAL REPORTS, COPIES OF CLAIMS AND CAUSES OF ACTION AGAINST THE HOUSING AUTHORITY, AND ITS EMPLOYEE POLICY HANDBOOKS WITH THE CITY CLERK.

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

SECTION 1. That Section 31-4204, Idaho Code, be, and the same is hereby amended to read as follows:

31-4204. ~~HOUSING-AUTHORITY-AS-INDEPENDENT-BODY-CORPORATE-AND-POLITIC----~~ POWERS OF AUTHORITY. A housing authority shall constitute an independent public body corporate and politic, exercising public and essential governmental functions, and having all the powers 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:

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority, including the power to contract with other housing authorities for services; and to make and from time to time amend and repeal ~~by-laws~~ bylaws, rules and regulations, not inconsistent with this act, to carry into effect the powers and purposes of the authority.

(b) Within the area of operation: to prepare, carry out, acquire, lease and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof.

(c) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works or facilities for, or in connection with, a housing project or the occupants thereof; and, notwithstanding anything to the contrary contained in

this act or in any other provision of law, to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

(d) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and, subject to the limitations contained in this act, to establish and revise the rents or charges therefor; to own, hold and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise or otherwise, any real or personal property or any interest therein; to acquire, by the exercise of the power of eminent domain, any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein; to insure or provide for the insurance of any real or personal property or operation of the authority against any risks or hazards; to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by an authority, including the power to pay premiums on any such insurance.

(e) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which banks may legally invest funds, subject to the control of the housing authority; to purchase its own bonds at a price not more than the principal amount thereof and accrued interest, and all bonds so purchased shall be cancelled.

(f) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of adequate, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstruction of slum areas and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(g) Acting through one (1) or more commissioners or other person or persons designated by the authority, to conduct examinations and investigations and to hear testimony and take proof, under oath, at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring attendance of witnesses or the production of books and papers, and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority, or excused from attendance; to make available, to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within its area of operation), its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

(h) To exercise all or any part ~~of~~ or combination of powers

herein granted.

SECTION 2. That Section 31-4205, Idaho Code, be, and the same is hereby amended to read as follows:

31-4205. CREATION OF HOUSING ~~AUTHORITY~~ AUTHORITIES. In any county of the state of Idaho, there may be created an independent public body corporate and politic to be known as a housing authority, which shall not be an agency of the county; provided, however, that such authority shall not transact any business or exercise its powers hereunder until or unless the governing body of the county, by proper resolution, shall declare, at any time hereafter, that there is need for an authority to function in such county. The determination as to whether or not there is such need for an authority to function (a) may be made by the governing body on its own motion or (b) shall be made by the governing body upon the filing of a petition signed by twenty-five (25) residents of the county asserting that there is need for an authority to function in such county and requesting that the governing body so declare.

The governing body shall adopt a resolution declaring that there is need for a housing authority in the county if it shall find (a) that insanitary or unsafe inhabited dwelling accommodations exist in such county or (b) that there is a shortage of safe or sanitary dwelling accommodations in such county available to persons of low income or rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary, said governing body may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities and the extent to which conditions exist in such building which endanger life or property by fire or other causes.

Nothing in this act shall prevent governing bodies from jointly creating by resolution an independent public body corporate and politic to carry out and effectuate the purposes and provisions of this act and to serve the best interests of their respective citizenry.

In any suit, action or proceeding, involving the validity of enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of resolution by the governing body declaring the need for the authority. Such resolution or resolutions shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms, no further detail being necessary, that either or both of the above enumerated conditions exist in the county. A copy of such resolution, duly certified by the clerk, shall be admissible in evidence in any suit, action or proceeding.

SECTION 3. That Section 31-4210, Idaho Code, be, and the same is hereby amended to read as follows:

31-4210. COMMISSIONERS ~~OF--AUTHORITY~~ -- APPOINTMENT ~~---TERMS---QUORUM----OFFICERS,-AGENTS-AND-EMPLOYEES-OF-COMMISSION------DELEGATION~~

~~OF--POWERS~~ -- QUALIFICATIONS -- TENURE. When a governing body of a county adopts a resolution as aforesaid, it shall appoint five (5) persons as commissioners of the authority created for said county. The commissioners who are first appointed shall be designated to serve for terms of one (1), two (2), three (3), four (4), and five (5) years, except that all vacancies shall be filled for the unexpired term. No commissioner of any authority may be an officer or employee of the county for which the authority is created. A commissioner shall hold office until his successor has been appointed and qualified. A certificate of appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services for the authority in any capacity, but he shall be entitled to the necessary expenses, including travel expenses, incurred in the discharge of his duties.

The powers of each authority shall be vested in the commissioners. Three (3) commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present. The ~~by-laws~~ bylaws of the authority shall designate which of the commissioners appointed shall be the first chairman and such chairman shall serve in the capacity of chairman until the expiration of his term of office as commissioner. When the office of the chairman of the authority thereafter becomes vacant, the commissioners shall select a chairman from their number, a ~~vice-chairman~~ vice chairman, and may employ a secretary, ~~who shall be~~ an executive director who shall serve as an at-will employee of the commissioners, technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the prosecuting attorney of the county or may employ its own counsel and legal staff. An authority may delegate to one (1) or more of its agents or employees such powers or duties as it may deem proper.

SECTION 4. That Section 31-4211, Idaho Code, be, and the same is hereby amended to read as follows:

31-4211. REMOVAL OF COMMISSIONERS. ~~For inefficiency or neglect of duty--or misconduct in office, a~~ A commissioner of an authority may be removed by a majority of the county commissioners~~, but a--commissioner shall--be--removed--only--after he shall have been given a copy of the charges, at least ten (10) days prior to the hearing thereon, and--has had--an--opportunity to be heard in person or by counsel. In the event of the removal of any commissioner pursuant to this section--a--record of--the--proceeding,--together--with the charges and findings thereon, shall be filed in the office of the clerk~~ at any time, with or without cause. The county commissioners shall cause to be sent a notice of the removal to the commissioner removed, the authority and the clerk.

SECTION 5. That Section 31-4221, Idaho Code, be, and the same is hereby amended to read as follows:

31-4221. ~~ANNUAL~~ FILING OF MINUTES AND REPORTS. (1) An authority shall file a copy of the minutes of all meetings with the clerk within ten (10) days after their approval by the authority.

(2) At least once a year, an authority shall file a report with the clerk of its activities for the preceding year, and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this act.

(3) An authority shall file with the clerk a copy of the authority's financial reports, any claims and causes of action against the authority, and the authority's employee policy handbooks and any changes, modifications, or deletions to the handbooks.

SECTION 6. That Section 50-1904, Idaho Code, be, and the same is hereby amended to read as follows:

50-1904. POWERS OF AUTHORITY. A housing authority shall constitute an independent public body corporate and politic, exercising public and essential governmental functions, and having all the powers 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:

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority, including the power to contract with other housing authorities for services; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this act, to carry into effect the powers and purposes of the authority.

(b) Within the area of operation: to prepare, carry out, acquire, lease and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof.

(c) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works or facilities for, or in connection with, a housing project or the occupants thereof; and, notwithstanding anything to the contrary contained in this act or in any other provision of law, to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

(d) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and, subject to the limitations contained in this act, to establish and revise the rents or charges therefor; to own, hold and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise or otherwise, any real or personal property or any interest therein; to acquire, by the exercise of the power of eminent domain, any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or

personal property or any interest therein; to insure or provide for the insurance of any real or personal property or operation of the authority against any risks or hazards; to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by an authority, including the power to pay premiums on any such insurance; to rent or sell and to agree to rent or sell dwellings forming part of the housing projects to or for persons of low income. Where an agreement or option is made to sell a dwelling to a person of low income, the authority may convey the dwelling to the person upon fulfillment of the agreement irrespective of whether the person is at the time of the conveyance a person of low income. Leases, options, agreements or conveyances may include such covenants as the authority deems appropriate to assure the achievement of the objectives of this chapter.

(e) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which banks may legally invest funds, subject to the control of the housing authority; to purchase its own bonds at a price not more than the principal amount thereof and accrued interest, and all bonds so purchased shall be ~~canceled~~ cancelled.

(f) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of adequate, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstruction of slum areas and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(g) Acting through one (1) or more commissioners or other person or persons designated by the authority, to conduct examinations and investigations and to hear testimony and take proof, under oath, at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring attendance of witnesses or the production of books and papers, and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority, or excused from attendance; to make available, to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within its area of operation), its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

(h) To make, purchase, participate in, invest in, take assignments of, or otherwise acquire loans to persons of low income to enable them to acquire, construct, reconstruct, rehabilitate, improve, lease or refinance their dwellings, and to take such security therefor as is deemed necessary and prudent by the authority.

(i) To make, purchase, participate in, invest in, take assignments of, or otherwise acquire loans for the acquisition, construction, reconstruction, rehabilitation, improvement, leasing or refi-

nancing of land, buildings or developments for housing for persons of low income. For purposes of this subsection, development shall include either land or buildings or both.

(j) Any housing project shall be subject to the requirement that the dwelling units made available to persons of low income together with functionally related and subordinate facilities shall occupy at least thirty percent (30%) of the interior space of any individual building other than a detached single-family or duplex residential building or mobile or manufactured home and shall occupy at least fifty percent (50%) of the total number of units in the development or at least fifty percent (50%) of the total number of units in the development, whichever produces the greater number of units for persons of low income. For mobile home parks, the mobile home lots made available to persons of low income shall be at least fifty percent (50%) of the total number of mobile home lots in the park.

(k) To exercise all or any part or combination of powers herein granted.

SECTION 7. That Section 50-1905, Idaho Code, be, and the same is hereby amended to read as follows:

50-1905. CREATION OF HOUSING AUTHORITIES. In any city of the state of Idaho, there may be created an independent public body corporate and politic to be known as a housing authority, which shall not be an agency of the city; provided, however, that such authority shall not transact any business or exercise its powers hereunder until or unless the governing body of the city, by proper resolution, shall declare, at any time hereafter, that there is need for an authority to function in such city. The determination, as to whether or not there is such need for an authority to function (a) may be made by the governing body on its own motion or (b) shall be made by the governing body upon the filing of a petition signed by twenty-five (25) residents of the city, asserting that there is need for an authority to function in such city and requesting that the governing body so declare.

The governing body shall adopt a resolution declaring that there is need for a housing authority in the city if it shall find (a) that insanitary or unsafe inhabited dwelling accommodations exist in such city or (b) that there is a shortage of safe or sanitary dwelling accommodations in such city available to persons of low income or rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary, said governing body may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities and the extent to which conditions exist in such building which endanger life or property by fire or other causes.

Nothing in this act shall prevent governing bodies from jointly creating by resolution an independent public body corporate and politic to carry out and effectuate the purposes and provisions of this act and to serve the best interests of their respective citizenry.

In any suit, action or proceeding, involving the validity or enforcement of or relating to any contract of the authority, the

authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of resolution by the governing body declaring the need for the authority. Such resolution or resolutions shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms, no further detail being necessary, that either or both of the above enumerated conditions exist in the city. A copy of such resolution, duly certified by the clerk, shall be admissible in evidence in any suit, action or proceeding.

SECTION 8. That Section 50-1910, Idaho Code, be, and the same is hereby amended to read as follows:

50-1910. APPOINTMENT, QUALIFICATIONS AND TENURE OF COMMISSIONERS. When the governing body of a city adopts a resolution as aforesaid, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall appoint, with the approval of the city council, five (5) persons as commissioners of the authority created for said city. The commissioners, who are first appointed shall be designated to serve for terms of one (1), two (2), three (3), four (4), and five (5) years, except that all vacancies shall be filled for the unexpired term. No commissioner of any authority may be an officer or employee of the city for which the authority is created. A commissioner shall hold office until his successor has been appointed and been qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services for the authority in any capacity, but he shall be entitled to the necessary expenses, including travel expenses, incurred in the discharge of his duties.

The powers of each authority shall be vested in the commissioners. Three (3) commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present. The ~~by-laws~~ bylaws of the authority shall designate which of the commissioners appointed shall be the first chairman and such chairman shall serve in the capacity of chairman until the expiration of his term of office as commissioner. When the office of the chairman of the authority thereafter becomes vacant, the commissioners shall select a chairman from their number, a ~~vice-chairman~~ vice chairman, and may employ a secretary, ~~who shall be~~ an executive director who shall serve as an at-will employee of the commissioners, technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the city attorney of the city or may employ its own counsel and legal staff. An authority may delegate to one (1) or more of its agents or employees such powers or duties as it may deem proper.

SECTION 9. That Section 50-1911, Idaho Code, be, and the same is

hereby amended to read as follows:

50-1911. REMOVAL OF COMMISSIONERS. ~~For inefficiency or neglect of duty--or misconduct in office, a~~ A commissioner of an authority may be removed by the mayor, ~~but a commissioner shall be removed--only--after he shall have been given a copy of the charges, at least 10 days prior to the hearing thereon, and has had an opportunity to be heard in person--or--by--counsel.--In the event of the removal of any commissioner pursuant to this section a record of the proceeding, together with the charges and findings thereon, shall be filed--in--the--office--of--the clerk~~ with the approval of the city council, at any time, with or without cause. The mayor shall cause to be sent a notice of the removal to the commissioner removed, the authority and the city clerk.

SECTION 10. That Section 50-1921, Idaho Code, be, and the same is hereby amended to read as follows:

50-1921. FILING OF MINUTES OF MEETINGS AND REPORTS. (1) An authority shall file a copy of the minutes of all meetings with the city clerk within ten (10) days after their approval by the authority.

(2) At least once a year, an authority shall file a report with the city clerk of its activities for the preceding year, and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this act.

(3) An authority shall file with the clerk a copy of the authority's financial reports, any claims and causes of action against the authority, the authority's employee policy handbooks and any changes, modifications, or deletions to the handbooks.

Approved March 25, 1998.

CHAPTER 368
(S.B. No. 1559)

AN ACT

APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 1999; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Division of Vocational Rehabilitation the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

A. RENAL DISEASE:

FROM:	
General Fund	$ 475,800
FOR:	
Trustee and Benefit Payments	$ 475,800

B. VOCATIONAL REHABILITATION:	
FROM:	
General Fund	$ 2,913,600
Federal Grants Fund	10,887,900
Rehabilitation Revenue and Refunds Fund	425,000
Miscellaneous Revenue Fund	310,000
Business and Industry Services Fund	8,200
TOTAL	$14,544,700
FOR:	
Personnel Costs	$ 5,843,200
Operating Expenditures	1,040,000
Capital Outlay	218,300
Trustee and Benefit Payments	7,443,200
TOTAL	$14,544,700
C. EPILEPSY SERVICES:	
FROM:	
General Fund	$ 60,000
FOR:	
Trustee and Benefit Payments	$ 60,000
D. INDEPENDENT LIVING COUNCIL:	
FROM:	
General Fund	$ 17,300
Federal Grants Fund	188,700
Miscellaneous Revenue Fund	11,000
TOTAL	$ 217,000
FOR:	
Lump Sum	$ 217,000
GRAND TOTAL	$15,297,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Vocational Rehabilitation is authorized no more than one hundred forty (140) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 25, 1998.

CHAPTER 369
(S.B. No. 1560)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE HUMAN RIGHTS COMMISSION FOR FISCAL YEAR 1999; 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 Gov-

ernor for the Human Rights Commission the following amounts, to be expended according to the designated standard classifications from the listed funds, for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$376,400	$130,400	$14,300	$521,100
Federal Grant Fund	112,600	58,600		171,200
Miscellaneous Revenue Fund		6,700		6,700
TOTAL	$489,000	$195,700	$14,300	$699,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Human Rights Commission is authorized no more than ten (10) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 25, 1998.

CHAPTER 370
(S.B. No. 1561)

AN ACT
APPROPRIATING MONEYS FOR THE IDAHO WOMEN'S COMMISSION FOR FISCAL YEAR 1999; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Idaho Women's Commission the following amounts, to be expended according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$26,900	$11,900	$38,800
Miscellaneous Revenue Fund		6,700	6,700
TOTAL	$26,900	$18,600	$45,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Women's Commission is authorized no more than fifty-two hundredths (0.52) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 25, 1998.

CHAPTER 371
(S.B. No. 1562)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 1999; 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, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$ 727,800	$ 82,300	$12,900	$445,700	$1,268,700
Randolph Sheppard Fund	34,900	7,200		83,000	125,100
Rehabilitation Revenue and Refunds Fund	41,800	33,300		12,700	87,800
Adaptive Aids and Appliances Fund		46,000			46,000
Federal Grant Fund	980,400	458,900	$41,700	405,000	1,886,000
Miscellaneous Revenue Fund		17,100		9,000	26,100
TOTAL	$1,784,900	$644,800	$54,600	$955,400	$3,439,700

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, 1998, through June 30, 1999, 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 25, 1998.

CHAPTER 372
(S.B. No. 1563)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 1999; 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, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$ 795,900	$530,600	$205,600	$1,532,100
Federal Grant Fund	706,900	211,400		918,300
TOTAL	$1,502,800	$742,000	$205,600	$2,450,400

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, 1998, through June 30, 1999, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 25, 1998.

CHAPTER 373
(S.B. No. 1564)

AN ACT

RELATING TO THE APPROPRIATION OF GENERAL FUND MONEYS FOR PROPERTY TAX REPLACEMENT; AMENDING SECTIONS 1, 2 AND 3, OF SENATE BILL 1555, AS ENACTED BY THE SECOND REGULAR SESSION OF THE FIFTY-FOURTH IDAHO LEGISLATURE; AND AMENDING SENATE BILL 1555, AS ENACTED BY THE SECOND REGULAR SESSION OF THE FIFTY-FOURTH IDAHO LEGISLATURE, BY THE ADDITION OF A NEW SECTION, TO APPROPRIATE GENERAL FUND MONEYS TO PROPERTY TAX REPLACEMENT.

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

SECTION 1. That Sections 1, 2 and 3, of Senate Bill 1555, as enacted by the Second Regular Session, of the Fifty-fourth Idaho Leg-

islature, be, and the same is hereby amended to read as follows:

SECTION 1. It is legislative intent that the following amounts shall be expended from state sources for public schools for the period July 1, 1998, through June 30, 1999:

FROM:

General Fund		$741,660,000
General Fund - Property Tax Replacement		54,700,000
Dedicated Funds:		
Endowment Funds/Lands Receipts	$39,900,000	
Mineral Royalties	2,000,000	
Liquor Fund	1,200,000	
Cigarette Tax	5,000,000	
Lottery Income Tax	500,000	
Miscellaneous Receipts	2,100,000	
Fund Balance	3,500,000	
Total Dedicated Funds		$ 54,200,000
TOTAL		~~$795,060,000~~850,560,000

SECTION 2. There is hereby appropriated from the General Fund for public schools, the following amount to be transferred to the Public School Income Fund for the period July 1, 1998, through June 30, 1999:

FROM:

General Fund ~~$741,660,000~~796,360,000

SECTION 3. There is hereby appropriated from the Public School Income Fund to be expended for the Educational Support Program pursuant to law and the provisions of this act, not to exceed ~~$795,060,000~~850,560,000 for the period July 1, 1998, through June 30, 1999.

SECTION 2. That Senate Bill 1555, as enacted by the Second Regular Session of the Fifty-fourth Idaho Legislature, is hereby amended by the addition of a NEW SECTION, to read as follows:

SECTION 20. There is hereby appropriated from the Public School Income Fund the amount necessary for property tax replacement, to be expended according to Section 33-1002D, Idaho Code, for the period July 1, 1998, through June 30, 1999.

Approved March 25, 1998.

CHAPTER 374
(S.B. No. 1384)

AN ACT

RELATING TO THE IDAHO HOUSING AND FINANCE ASSOCIATION; AMENDING SECTION 67-6206, IDAHO CODE, TO PROVIDE POWERS FOR THE ASSOCIATION TO ACT AS A CLEARINGHOUSE FOR HOUSING MATTERS AND TO COORDINATE AND DEVELOP A STATE HOUSING POLICY; AMENDING SECTION 67-6211, IDAHO CODE, TO REMOVE THE LIMITATION ON THE AMOUNT OF BONDS NOT SECURED

BY THE STATE SALES TAX WHICH MAY BE ISSUED BY THE ASSOCIATION 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 67-6206, Idaho Code, be, and the same is hereby amended to read as follows:

67-6206. POWERS OF ASSOCIATION. The housing and finance association 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:

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the association; and to make and from time to time amend and repeal bylaws, rules, not inconsistent with this act, to carry into effect the powers and purposes of the association.

(b) To conduct its operations within any or all of the counties of the state.

(c) To cooperate with housing authorities throughout Idaho in the development of housing projects.

(d) To assign priorities for action and revise or modify said priorities from time to time.

(e) To make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the association under this act, including contracts with any housing sponsor, mortgage lender, person, firm, corporation, governmental agency, or other entity; and to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project and to designate mortgage lenders to act for and in behalf of the association, with respect to originating or servicing and processing mortgage loans of the association, and to pay the reasonable value of service rendered to the association by such mortgage lenders pursuant to contracts with mortgage lenders.

(f) To lease, sell, construct, finance, reconstruct, restore, rehabilitate, operate or rent any housing projects, nonprofit facilities or any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project or nonprofit facilities and, subject to the limitations contained in this act, to establish and revise the rents or charges therefor.

(g) To own, hold and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any interest therein.

(h) To acquire any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property

or any interest therein.

(i) To insure or provide for the insurance of any real or personal property or operation of the association against any risks or hazards, and to procure or agree to the procurement of insurance or guarantees from the federal government or other source for the payment or purchase of any bonds or parts thereof issued by the association, including the power to pay for any such insurance or guarantees.

(j) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which a bank, as defined in the "bank act," title 26, Idaho Code, may legally invest funds including without limitation, to agree to purchase the obligations of any federal, state or local government upon such conditions as the association may determine to be prudent and in its best interest.

(k) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of adequate, safe and sanitary dwelling accommodations for persons of low-income; to make studies and recommendations relating to the problem of clearing, replanning and reconstruction of slum areas and the problem of providing dwelling accommodations for persons of low-income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(l) To participate in cooperative ventures with any agencies, organizations and individuals in order to undertake the provision of housing for persons of low-income or to undertake the provision of nonprofit facilities.

(m) To provide research and technical assistance to eligible agencies, organizations and individuals eligible to develop low cost housing and to research new low cost housing development and construction methods.

(n) To make and undertake commitments to make or participate in the making of mortgage loans to persons of low-income and to housing sponsors, including without limitation federally insured mortgage loans, and to make temporary loans and advances in anticipation of permanent loans to housing sponsors; said mortgage loans to housing sponsors shall be made to finance the construction, improvement, or rehabilitation of housing projects for persons of low-income, and/or mixed income housing projects upon the terms and conditions set forth in this act; provided, however, that such loans shall be made only upon the determination by the association that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

(o) To purchase, or make commitments to purchase or participate in the purchase of mortgage loans from mortgage lenders which loans have been made for the construction, improvement, or rehabilitation of housing projects for persons of low-income and/or mixed income housing projects or loans which have been made to persons of low-income for residential housing, upon terms set forth in this act; provided, however, that any such purchase shall be made only upon the determination by the association that the mortgage loans to be made are not other-

wise being made by mortgage lenders upon reasonably equivalent terms and conditions. Also, to purchase, or make commitments to purchase or participate in the purchase of mortgage loans from mortgage lenders whether or not said loans were made to persons of low-income, upon terms set forth in this act; provided, however, that the proceeds from such purchase or the equivalent thereof shall be reinvested in obligations of the association, in mortgage loans to persons of low-income or in mortgage loans for housing projects for persons of low-income and/or mixed income housing projects, and provided that any such purchase shall be made only upon the determination by the association that the mortgage loans to be made are not otherwise being made by mortgage lenders upon reasonably equivalent terms and conditions.

(p) To provide interim financing for housing projects including mixed income housing projects approved by the association, provided that the association has determined that such financing is not otherwise available from mortgage lenders upon reasonably equivalent terms and conditions.

(q) To prescribe rules and policies in connection with the performance of its functions and duties.

(r) To do all other things deemed necessary and desirable to accomplish the objectives of this act.

(s) To borrow money and issue bonds and notes or other obligations, to invest the proceeds thereof in any lawful manner and to fund or refund the same, and to provide for the rights of the holders of its obligations as provided in this act and in connection therewith, to waive, by resolution or other document of the association, the exemption from federal income taxation of interest on any of the association's obligations under existing or future federal law and to establish, maintain and preserve the association's general obligation rating and any rating on its bonds, notes or other obligations.

(t) To receive and accept aid or contributions from any source.

(u) To employ architects, engineers, attorneys, accountants, housing construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix their compensation.

(v) To insure mortgage payments of any mortgage loan made for the purpose of constructing, rehabilitating, purchasing, leasing, or refinancing housing projects upon such terms and conditions as the association may prescribe.

(w) To fix and revise from time to time and charge and collect fees and charges in connection with loans made or other services provided by the association pursuant to this act, and to make and publish rules respecting the making and purchase of mortgage loans.

(x) To organize a nonprofit corporation to assist the association in providing for housing projects.

(y) To enter upon and inspect any housing project, including housing projects undertaken by housing sponsors, for the purpose of investigating the physical and financial condition thereof, and its construction, rehabilitation, operation, management and maintenance, and to examine all books and records with respect to capitalization, income and other matters relating thereto.

(z) To order such alterations, changes or repairs as may be necessary to protect the security of its investment in a housing project

or the health, safety, and welfare of the occupants thereof.

(aa) To make secured loans for the purpose of providing temporary or permanent financing or refinancing of all or part of the project costs of any nonprofit facility, including the refunding of any outstanding obligations, mortgages or advances issued, made or given by any person for the project costs of a nonprofit facility; and to charge and collect interest on the loans for the loan payments upon such terms and conditions, including without limitation bond rating and issuance conditions, as the board of commissioners considers advisable which are not in conflict with this chapter.

(bb) As security for the payment of the principal of and interest on any revenue bonds issued and any agreements made in connection therewith, to mortgage, pledge, or otherwise encumber any or all of nonprofit facilities or any part or parts thereof, whether then owned or thereafter acquired, and to assign any mortgage and repledge any security conveyed to the association, to secure any loan made by the association and to pledge the revenues and receipts therefrom.

(cc) To issue bonds for the purpose of financing all or part of the project cost on any nonprofit facility and to secure the payment of the bonds as provided in this chapter.

(dd) To purchase or sell by installment contract or otherwise, and convey all or any part of any nonprofit facility for such purchase price and upon such terms and conditions as this board of commissioners considers advisable which are not in conflict with this chapter.

(ee) To lease all or any part of any nonprofit facility for such rentals and upon such terms and conditions, including options to purchase, as the board of commissioners considers advisable and not in conflict with this chapter.

(ff) To construct and maintain one (1) or more nonprofit facilities that the association shall not operate any nonprofit facility as a business other than as lessor, seller or lender. The purchase, holding and enforcing of mortgages, deeds of trust, or other security interests and contracting for any servicing thereof is not considered the operation of a nonprofit facility as a business.

(gg) To act as the designated housing resource clearinghouse in the state for matters relating to affordable housing.

(hh) To coordinate the development and maintenance of a housing policy for the state.

SECTION 2. That Section 67-6211, Idaho Code, be, and the same is hereby amended to read as follows:

67-6211. ADDITIONAL DEFINITIONS AND CAPITAL RESERVE FUND PROCEDURES. As used in this section, the following words and phrases shall have the following meanings unless the context shall indicate another or different meaning or intent:

(a) "Maximum capital reserve fund requirement" shall mean the amount set forth in the association's resolution or indenture authorizing the bonds or other obligations secured by a capital reserve fund, or, if no amount is stated in such resolution or indenture, then, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any future fiscal year of the association, of annual debt service

of the association, such annual debt service for any fiscal year being the amount of money equal to the aggregate of:

(1) All interest payable during such fiscal year on all bonds secured by such capital reserve fund of the association outstanding on said date of computation, plus

(2) The principal amount of all bonds of the association secured by such capital reserve fund, outstanding on said date of computation which matures during such fiscal year, plus

(3) The amount of all annual sinking fund payments payable during such fiscal year with respect to any bonds of the association secured by such capital reserve fund, outstanding on said date of computation.

(b) "Annual sinking fund payment" shall mean the amount of money specified in the resolution authorizing term bonds as payable into a sinking fund during a particular fiscal year for the retirement of term bonds which mature after such fiscal year, but shall not include any amount payable by reason only of the maturity of a bond.

(c) "Available operating revenues" shall mean all amounts received on account of rentals and fees and other charges imposed by the association, if any, and income or interest earned or added to funds of the association due to the investment thereof and not required under the terms or provisions of any covenant or agreement with holders of any bonds or notes of the association to be applied to any purposes other than payment of expenses of the association.

(d) "Amortized value," when used with respect to securities purchased at a premium above or a discount below par, shall mean the value as of any given date obtained by dividing the total premiums or discount at which such securities were purchased by the number of interest payments remaining to maturity on such securities after such purchase, and by multiplying the amount so calculated by the number of interest payment dates having passed since the date of such purchase; and

(1) In the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and

(2) In the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

(e) The association shall create and establish one (1) or more special funds (herein referred to as "capital reserve funds"), and shall credit each such capital reserve fund:

(1) Any proceeds of sale of notes or bonds, to the extent provided in the resolution or resolutions of the association authorizing the issuance thereof,

(2) Any funds directed to be transferred by the association to such fund, and

(3) Any other moneys which may be made available to the association for the purpose of such fund from any other source or sources.

(f) All moneys held in or credited to each such capital reserve fund, except as hereinafter provided, shall be used, as required, solely for the payment of the principal of bonds or of the sinking fund payments hereinafter mentioned with respect to such bonds, the purchase or redemption of bonds, the payment of interest on bonds or the payment of any redemption premium required to be paid when such

bonds are redeemed prior to maturity; provided, however:

(1) That moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum capital reserve fund requirement, except for the purposes of making payment, when due, with respect to such bonds, of principal or redemption price of, interest and the sinking fund payments, as the same become due, and for the payment of which other moneys of the association are not available.

(2) Any income or interest earned by, or increment to, any capital reserve fund due to the investment thereof may be transferred by the association to other funds or accounts of the association to the extent it does not reduce the amount of such capital reserve fund below the maximum capital reserve fund requirement.

(g) Within sixty (60) days after the close of the association's fiscal year, the chairman of the association shall certify to the state tax commission the amount, if any, required to maintain the capital reserve funds established pursuant to this section at the maximum capital reserve fund requirement, but only for any capital reserve fund of the association which is required by a resolution of the association to be maintained by a continuing appropriation from the sales tax account. The chairman of the association shall not be entitled to so certify to the state tax commission for any capital reserve fund of the association for bonds issued by the association after January 1, 1996~~,--or--at--any--time--that--the--total--principal--amount--of--the association's-outstanding-bonds-exceeds-the-sum-of-one--thousand--four hundred-million-dollars-($1,400,000,000)~~.

(h) The association shall not issue bonds at any time if upon issuance there will be created a capital reserve fund and the amount in the capital reserve fund securing such bonds will be less than the maximum capital reserve fund requirement, unless the association, at the time of issuance of such bonds, shall deposit in such fund, from the proceeds of the bonds so to be issued, or sources other than the state sales tax fund, an amount which, together with the amount then in such fund, will not be less than the maximum capital reserve fund requirement.

(i) Moneys in a capital reserve fund not required for immediate use or disbursement may be invested in obligations of the state or the United States of America or obligations the principal of and interest on which are guaranteed by the state or the United States of America or obligations of agencies of the United States of America or any obligations which may from time to time be legally purchased by banks under title 26, Idaho Code, as investment of funds belonging to them or in their control. In computing the amount of a capital reserve fund for the purposes of this section, securities in which all or a portion of such fund are invested shall be valued at par if purchased at par or, if purchased at other than par, at amortized value.

(j) The association shall create and establish such other fund or funds as may be necessary or desirable for its corporate purposes.

(k) In the event of the dissolution of the association, any funds or assets of the association remaining after paying its bonds, notes or other obligations shall revert to the state.

(l) The total principal amount of the association's outstanding bonds secured by a capital reserve fund entitled to appropriation from

the state sales tax account pursuant to section 67-6211(g), Idaho Code, and section 63-3638(d)(1), Idaho Code, shall not exceed the sum of eighty-nine million dollars ($89,000,000).

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

Approved March 25, 1998.

CHAPTER 375
(H.B. No. 823)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 1999; APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE GUARDIAN AD LITEM FUND; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; EXPRESSING LEGISLATIVE INTENT SUPPORTING RECOMMENDATIONS OF IDAHO CASA ASSOCIATION.

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

SECTION 1. There is hereby appropriated to the Supreme Court, the following amounts, to be expended from the listed funds for the period July 1, 1998, through June 30, 1999:

FROM:

General Fund	$20,930,200
Guardian Ad Litem Fund	443,400
ISTARS Technology Fund	1,812,100
Federal Grant Fund	157,600
Miscellaneous Revenue Fund	305,000
TOTAL	$23,648,300

SECTION 2. There is hereby appropriated $430,200 from the General Fund to be deposited in the Guardian Ad Litem Fund for the period July 1, 1998, through June 30, 1999.

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.

SECTION 4. It is legislative intent that in order to avoid the appearance of a conflict of interest, the Joint Finance-Appropriations Committee supports the recommendation of the Idaho CASA Association that program governing boards not have as members any known potential parties to a child protection matter.

Approved March 25, 1998.

CHAPTER 376
(H.B. No. 822, As Amended)

AN ACT

APPROPRIATING MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 1999; LIMITING CERTAIN BILLING RATES; REQUIRING CERTAIN PURCHASES BE SUBJECT TO CERTAIN CONDITIONS; EXPRESSING LEGISLATIVE INTENT REGARDING THE STATEWIDE SYSTEMS OF THE STATE CONTROLLER; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; SETTING CONDITIONS FOR REAPPROPRIATIONS; EXPRESSING LEGISLATIVE INTENT REGARDING THE DISTRIBUTION OF EMPLOYEE RETENTION MONEY; 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 designated programs according to the standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

FOR:	
STATEWIDE ACCOUNTING AND PAYROLL:	$ 5,674,300
FROM:	
General Fund	$ 1,885,500
Statewide Accounting Fund	1,802,700
Employee Information System Fund	1,986,100
TOTAL	$ 5,674,300
FOR:	
COMPUTER CENTER:	$ 6,280,200
FROM:	
Data Processing Services Fund	$ 6,280,200
GRAND TOTAL	$11,954,500

SECTION 2. Any other provisions of law notwithstanding, this appropriation of moneys shall not result in billings to agencies exceeding 28¢ per transaction for Statewide Accounting billing purposes, and not exceeding $3.39 per employee per pay period for Statewide Payroll billing purposes.

SECTION 3. Any purchases or obligations involving information technology items for the period July 1, 1998, through June 30, 1999, are to be submitted to and coordinated by the Information Technology

Resource Management Council.

SECTION 4. It is legislative intent that the State Controller's Office statewide systems conform to year 2000 requirements through the use of funds within the limitations of appropriations.

SECTION 5. It is legislative intent that an amount not to exceed $1,000 of the amounts appropriated, may be used at the discretion of the State Controller to assist in defraying expenses relating to or resulting from the discharge of the State Controller's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 6. There is hereby reappropriated to the State Controller, the unexpended and unencumbered balance of any appropriation made to the State Controller for the period July 1, 1997, through June 30, 1998, to be used for nonrecurring expenditures only for the period July 1, 1998, through June 30, 1999.

SECTION 7. The reappropriation granted in Section 6 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1998, is zero, the reappropriation of General Funds in Section 6 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, 1998, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount of General Funds reappropriated in Section 6 of this act shall be in the proportion that the reappropriation for the State Controller bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 8. It is legislative intent that the moneys provided by this appropriation for the retention of employees deemed to be critical to the completion of the Year 2000 project be distributed in the form of one-time bonuses upon the satisfactory completion of the Year 2000 project, and shall not be distributed to employees who have been employed by the State Controller for less than one (1) year immediately prior to the distribution.

SECTION 9. In accordance with Section 67-3519, Idaho Code, the State Controller is authorized no more than ninety-eight and eighty-five hundredths (98.85) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 25, 1998.

CHAPTER 377
(H.B. No. 824)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 1999; 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, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 362,700	$ 279,400	$ 29,500	$ 7,700	$ 679,300
Facilities Maintenance Fund	45,200	104,700			149,900
Agriculture in the Classroom Fund		20,600			20,600
Administration and Accounting Services Fund	399,100	70,400			469,500
TOTAL	$ 807,000	$ 475,100	$ 29,500	$ 7,700	$ 1,319,300
II. ANIMAL INDUSTRIES:					
FROM:					
General Fund	$ 660,600	$ 93,500	$ 33,500	$118,000	$ 905,600
Agricultural Fees - Livestock Disease Control Fund	432,300	256,300	10,600		699,200
Agricultural Fees - Dairy Inspection Fund	598,200	138,600	33,800		770,600
Agricultural Fees - Egg Inspection Fund	72,600	24,500	14,500		111,600
Agricultural Fees - Commercial Fisheries Fund	6,000	4,200			10,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Seminars and Publications Fund		115,100			115,100
TOTAL	$ 1,769,700	$ 632,200	$ 92,400	$118,000	$ 2,612,300
III. AGRICULTURAL TECHNOLOGY:					
FROM:					
General Fund	$ 436,300	$ 559,900	$ 13,500		$ 1,009,700
Agricultural Fees - Commercial Feed and Fertilizer Fund	180,700	58,500	8,000		247,200
Agricultural Fees - Pesticides Fund	902,400	452,500	100,300		1,455,200
Federal Grant Fund	373,100	163,800			536,900
TOTAL	$ 1,892,500	$1,234,700	$121,800		$ 3,249,000
IV. PLANT INDUSTRIES:					
FROM:					
General Fund	$ 505,600	$ 88,300	$ 25,100		$ 619,000
Agricultural Inspection Fund	897,200	195,700	$ 19,800		1,112,700
Agricultural Fees - Commercial Feed and Fertilizer Fund	186,400	70,400	10,100		266,900
Agricultural Fees - Honey Advertising Fund	300	6,000			6,300
Federal Grant Fund	34,800	5,300			40,100
TOTAL	$ 1,624,300	$ 365,700	$ 55,000		$ 2,045,000
V. AGRICULTURAL INSPECTIONS:					
FROM:					
General Fund	$ 769,300	$ 204,000	$ 21,700		$ 995,000
Agricultural Inspection Fund	158,800	54,300		$ 3,700	216,800
Agricultural Fees - Organic Food Products Fund	40,700	20,200			60,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund	8,340,400	824,500	81,000	456,300	9,702,200
TOTAL	$ 9,309,200	$1,103,000	$102,700	$460,000	$10,974,900
VI. MARKETING AND DEVELOPMENT:					
FROM:					
General Fund	$ 238,200	$ 134,400	$ 7,000		$ 379,600
Agricultural Inspection Fund	31,000	100			31,100
Agricultural Loans Fund	10,500	15,400		$ 5,200	31,100
Federal Grant Fund				41,100	41,100
Seminars and Publications Fund		231,200			231,200
USDA Publications Fund		62,800			62,800
TOTAL	$ 279,700	$ 443,900	$ 7,000	$ 46,300	$ 776,900
VII. ANIMAL DAMAGE CONTROL:					
FROM:					
General Fund				$108,500	$ 108,500
Animal Damage Control Fund				100,000	100,000
Agricultural Fees - Sheep Industry Regulation Fund		$ 200		102,700	102,900
TOTAL		$ 200		$311,200	$ 311,400
VIII. SHEEP COMMISSION:					
FROM:					
General Fund	$ 34,500	$ 5,700			$ 40,200
Agricultural Fees - Sheep Industry Regulation Fund	55,800	28,900			84,700
Sheep and Goat Disease Indemnity Fund		20,000			20,000
TOTAL	$ 90,300	$ 54,600			$ 144,900
GRAND TOTAL	$15,772,700	$4,309,400	$408,400	$943,200	$21,433,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Agriculture is authorized no more than one hundred seventy and thirty-one hundredths (170.31) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 25, 1998.

CHAPTER 378
(H.B. No. 825)

AN ACT

APPROPRIATING MONEYS TO THE SOIL CONSERVATION COMMISSION FOR FISCAL YEAR 1999; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Soil Conservation Commission in the Department of Agriculture, the following amounts, to be expended according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,155,800	$ 99,200		$ 563,900	$1,818,900
Resource Conservation and Rangeland Development Fund	65,900	396,700	$60,000	959,000	1,481,600
Federal Grant Fund	110,400	148,300			258,700
TOTAL	$1,332,100	$644,200	$60,000	$1,522,900	$3,559,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Soil Conservation Commission is authorized no more than twenty-four (24) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 25, 1998.

CHAPTER 379
(H.B. No. 826)

AN ACT

APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 1999; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 1999.

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

SECTION 1. There is hereby appropriated to the Board of Tax Appeals in the Department of Revenue and Taxation the following amounts, to be expended according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

FOR:	
Personnel Costs	$241,600
Operating Expenditures	46,700
Capital Outlay	7,700
TOTAL	$296,000
FROM:	
General Fund	$296,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Board of Tax Appeals is authorized no more than five (5) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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. In addition to the appropriation provided in Senate Bill 1520, of the Second Regular Session of the Fifty-fourth Idaho Legislature, there is hereby appropriated to the State Tax Commission in the Department of Revenue and Taxation the following amount, to be expended for the County Support program according to the designated standard classification from the listed fund for the period July 1, 1998, through June 30, 1999:

FOR:	
Operating Expenditures	$15,000
FROM:	
General Fund	$15,000

Moneys are to be used to offset, to the extent possible, the costs of training county commissioners at the appraisal school as provided in Section 63-105A(17), Idaho Code.

Approved March 25, 1998.

CHAPTER 380
(H.B. No. 827)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 1999; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM VARIOUS FUNDS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; SUPERSEDING THE PROVISIONS OF SECTION 39-3630, IDAHO CODE; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS TO THE ENVIRONMENTAL REMEDIATION FUND; AND EXPRESSING LEGISLATIVE INTENT REGARDING THE ENVIRONMENTAL REMEDIATION FUND AND REQUIRING AN ANNUAL REPORT.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Division of Environmental Quality the following amounts to be expended for the designated programs according to the designated expense classes from the various funds listed for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INEEL OVERSIGHT:					
FROM:					
General Fund	$ 170,000	$ 17,900			$ 187,900
Cooperative Welfare/DEQ Fund (Federal)	1,009,200	369,400	$ 12,800	$ 477,100	1,868,500
TOTAL	$ 1,179,200	$ 387,300	$ 12,800	$ 477,100	$ 2,056,400
II. PLANNING AND SUPPORT SERVICES:					
FROM:					
General Fund	$ 174,500	$ 118,000			$ 292,500
Hazardous Waste Management Fund	276,900	277,300			554,200
Air Quality Permitting Fund	127,000	208,200	$ 2,000		337,200
Water Pollution Control Fund	448,600	612,700	1,900		1,063,200
Cooperative Welfare/DEQ Fund (Federal)	1,343,100	1,228,100	5,900		2,577,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare/DEQ Fund (Other)	208,900	86,800	700		296,400
TOTAL	$ 2,579,000	$2,531,100	$ 10,500		$ 5,120,600
III. AIR AND HAZARDOUS WASTE:					
FROM:					
General Fund	$ 378,200	$ 56,300			$ 434,500
Hazardous Waste Management Fund	796,500	87,400			883,900
Air Quality Permitting Fund	961,900	209,000	$ 17,200		1,188,100
Cooperative Welfare/DEQ Fund (Federal)	1,625,600	363,600	17,400	$ 153,900	2,160,500
Cooperative Welfare/DEQ Fund (Other)	9,600	11,800			21,400
TOTAL	$ 3,771,800	$ 728,100	$ 34,600	$ 153,900	$ 4,688,400
IV. WATER QUALITY AND REMEDIATION:					
FROM:					
General Fund	$ 786,900	$ 106,600			$ 893,500
Agriculture Smoke Management Fund		29,700			29,700
Hazardous Waste Management Fund	141,400	120,500			261,900
Air Quality Permitting Fund	266,100	90,700	$ 9,800	$ 193,900	560,500
Water Pollution Control Fund	4,428,600	2,089,000	47,400	4,501,800	11,066,800
Environmental Remediation Fund	125,100	719,300			844,400
Bunker Hill Trust Fund				505,200	505,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare/DEQ Fund (Federal)	3,630,500	1,365,400	76,400	1,477,700	6,550,000
Cooperative Welfare/DEQ Fund (Other)	1,227,500	386,400	17,600	234,700	1,866,200
TOTAL	$10,606,100	$4,907,600	$151,200	$6,913,300	$22,578,200
GRAND TOTAL	$18,136,100	$8,554,100	$209,100	$7,544,300	$34,443,600

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund, the Water Pollution Control Fund, the Hazardous Waste Management Fund and the Air Quality Permitting Fund to the Cooperative Welfare Fund - DEQ, periodically, as requested by the Administrator of the Division of Environmental Quality and approved by the Board of Examiners.

SECTION 3. There is hereby reappropriated to the Department of Health and Welfare for the Division of Environmental Quality any unexpended and unencumbered balances of the Cooperative Welfare Fund - DEQ as appropriated for the Division of Environmental Quality for fiscal year 1998, to be used for nonrecurring expenditures only for the period July 1, 1998, through June 30, 1999. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than three hundred forty-seven and fifty-five hundredths (347.55) full-time equivalent positions in the Division of Environmental Quality at any point during the period July 1, 1998, through June 30, 1999, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. It is legislative intent that the appropriation of moneys from the Water Pollution Control Fund specifically supersedes the provisions of Section 39-3630, Idaho Code.

SECTION 6. In addition to the appropriation contained in Section 1 of this act, the State Controller is hereby directed to transfer $520,000 from the Water Pollution Control Fund to the Environmental Remediation Fund for the period July 1, 1998, through June 30, 1999.

SECTION 7. It is legislative intent that moneys deposited into the Environmental Remediation Fund are to be used solely for Bunker

Hill remediation within the site and that in accordance with the Bunker Hill Remedial Action Management Plan, an annual report shall be filed no later than January 1 of each year with the Governor, the Legislature, and the Bunker Hill Superfund Task Force on the remediation progress and the expenditures involved.

Approved March 25, 1998.

CHAPTER 381
(H.B. No. 828)

AN ACT

RELATING TO ADMINISTRATIVE RULES; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 1999; CONTINUING RULES APPROVED, MODIFIED, AMENDED OR EXTENDED BY ADOPTION OF A CONCURRENT RESOLUTION OF THE SECOND REGULAR SESSION OF THE FIFTY-FOURTH IDAHO LEGISLATURE IN FULL FORCE AND EFFECT UNTIL JULY 1, 1999 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, 1998, 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, 1999, 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 the House of Representatives in the Second Regular Session of the Fifty-fourth Idaho Legislature shall continue in full force and effect in such approved, modified, amended or extended language until July 1, 1999, at which time they shall expire as provided in Section 67-5292, Idaho Code, or until such earlier time as provided in the rule or as otherwise provided by statute, unless further extended by statute.

SECTION 3. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been rejected by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the Second Regular Session of the Fifty-fourth 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 pro-

hibit 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, 1999, 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 25, 1998.

CHAPTER 382
(H.B. No. 831)

AN ACT

APPROPRIATING MONEYS FROM THE PERMANENT BUILDING FUND TO THE DIVISION OF PUBLIC WORKS FOR THE VARIOUS PURPOSES SPECIFIED; REAPPROPRIATING CERTAIN UNEXPENDED PROJECT BALANCES; 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; PROVIDING FOR A TRANSFER OF $2,000,000 FROM THE GENERAL FUND TO THE PERMANENT BUILDING FUND; AND DECLARING AN EMERGENCY FOR SECTIONS 1, 2, 3, 4 AND 5 OF THIS ACT.

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

SECTION 1. There is hereby appropriated from the Permanent Building Fund to the Division of Public Works the following amounts, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair, of buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, including those listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building 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:	$14,136,000
(1) Alterations and Repairs	
(2) Asbestos Surveys and Abatement	
(3) Underground Storage Tank Program	
(4) Statewide ADA Compliance	
(5) Capitol Mall Maintenance	
B. STATE BOARD OF EDUCATION:	
(1) University of Idaho - Agricultural - Biotechnology Facilities	$ 1,050,000
(2) Lewis-Clark State College - Physical Education Facility Phase II Planning and Design	554,000
(3) Idaho State University - Physical Science Laboratory and Classroom Renovation and Remodeling	3,000,000
(4) Boise State University - Canyon County Branch Campus Project	2,000,000
(5) University of Idaho - University Classroom Center Renovation	150,000
(6) North Idaho College - Campus Master Plan	150,000
(7) College of Southern Idaho - Fine Arts Addition Planning	150,000
TOTAL	$ 7,054,000
C. DEPARTMENT OF CORRECTION:	
(1) South Idaho Correctional Institution Medical Clinic	$ 240,000
(2) Parole Violator Center	165,000
TOTAL	$ 405,000
D. DEPARTMENT OF JUVENILE CORRECTIONS:	
Owyhee Serious Juvenile Offender/Multi-purpose Complex - St. Anthony	$ 180,000
E. DEPARTMENT OF ADMINISTRATION:	
Multi-agency Communications and Microwave Building - Meridian	$ 1,700,000
F. DEPARTMENT OF HEALTH AND WELFARE:	
Health Laboratory Maintenance Shop	$ 97,000
G. DEPARTMENT OF AGRICULTURE:	
Greenhouse Complex	$ 157,500
GRAND TOTAL	$23,729,500

SECTION 2. 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) Idaho State Historical Society - Historical Library and Archives Building: Section 3, Chapter 412, Laws of 1996.

(2) Department of Correction - ISCI 500-bed Medium-security Facility: Section 2, Chapter 310, Laws of 1995.

(3) Department of Law Enforcement - Headquarters Complex and POST Academy: Section 1, Chapter 302, Laws of 1994.

(4) Attorney General - Remodel in Joe R. Williams Building: Section 2, Chapter 98, Laws of 1993.

(5) Boise State University - Canyon County Vo-Tech classroom building: Section 1, Chapter 321, Laws of 1992.
(6) Idaho State University - Baldwin Hall Demolition: Section 1, Chapter 321, Laws of 1992.
(7) Department of Correction - Pocatello Women's Correctional Center: Section 1, Chapter 321, Laws of 1992.
(8) Department of Correction - NICI-Cottonwood Remodel and 40-bed Dormitory: Section 1, Chapter 232, Laws of 1991.
(9) Department of Agriculture - Quality Assurance Laboratory: Section 1, Chapter 338, Laws of 1990.
(10) Department of Correction - NICI-Cottonwood Food Service Remodel: Section 1, Chapter 337, Laws of 1990.
(11) Military Division - Post Falls Armory Land Purchase: Section 1, Chapter 278, Laws of 1989.
(12) Lewis-Clark State College - Library Project: Section 2, Chapter 279, Laws of 1989.

SECTION 3. It is the express intention that the moneys appropriated in this act may be made available for matching any allocation of moneys now in existence or hereafter made available by agencies of the United States and/or private donations; 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 4. All appropriations made herein shall be exempt from the provisions of Chapter 36, Title 67, and Section 67-3516, Idaho Code, but shall be available for expenditure only after allotment in accordance with the other provisions of Chapter 35, Title 67, Idaho Code, and all appropriations made hereunder shall be subject to the provisions of Section 67-5711, Idaho Code, except as otherwise provided herein.

SECTION 5. The State Treasurer is hereby authorized and directed to anticipate the revenues in the Permanent Building Fund by the issuance of tax anticipation notes in accordance with authority conferred in Sections 63-3201 through 63-3204, Idaho Code, and in accordance with the procedures and subject to the limitations provided in those sections, in the same manner as though the revenues in the General Fund were being anticipated.

SECTION 6. There is hereby appropriated and the State Controller is directed to transfer the amount of $2,000,000 from the General Fund to the Permanent Building Fund.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3, 4 and 5 of this act shall be in full force and effect on and after its passage and approval.

Approved March 25, 1998.

CHAPTER 383
(H.B. No. 833)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 1999; PROVIDING FOR THE RECOVERY OF BANKING SERVICES COSTS TO THE GENERAL FUND; AUTHORIZING AN AMOUNT FOR PAYMENT OF BANK SERVICE FEES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE TREASURER; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Treasurer the following amounts, to be expended for the designated program according to the standard classifications from the listed funds, for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR LUMP SUM	TOTAL
FROM:					
General Fund	$734,800	$421,500	$31,700		$1,188,000
State Treasurer LGIP Fund				$187,600	187,600
Treasurer's Office-Professional Services Fund				167,300	167,300
TOTAL	$734,800	$421,500	$31,700	$354,900	$1,542,900

SECTION 2. The moneys assessed by the Division of Financial Management in accordance with Section 67-3531, Idaho Code, for State Treasurer banking services shall be placed in the Indirect Cost Recovery Fund. On June 30, 1999, the State Controller shall transfer the moneys in the Indirect Cost Recovery Fund, up to a maximum of $1,137,600, to the state General Fund.

SECTION 3. Of the amount appropriated for Operating Expenditures in Section 1 of this act, $341,400, or so much thereof as is necessary, is to be used solely and only for the payment of bank service fees for the period July 1, 1998, through June 30, 1999, any other provisions of law notwithstanding.

SECTION 4. There is hereby reappropriated to the State Treasurer the unexpended and unencumbered balance of any appropriation made to the State Treasurer from the Treasurer's Office LGIP Fund or the Treasurer's Office - Professional Services Fund for the period July 1, 1997, through June 30, 1998, to be used for nonrecurring expenditures only for the period July 1, 1998, through June 30, 1999.

SECTION 5. It is legislative intent that an amount, not to exceed $1,000 of the amount appropriated in Section 1 of this act, may be used at the discretion of the State Treasurer to assist in defraying expenses relating to or resulting from the discharge of the State Treasurer's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 6. In accordance with Section 67-3519, Idaho Code, the Office of the State Treasurer is authorized no more than sixteen and nine-tenths (16.9) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 25, 1998.

CHAPTER 384
(H.B. No. 834)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 1999; 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, 1998, through June 30, 1999:

FOR:	
Personnel Costs	$ 7,697,200
Operating Expenditures	7,562,900
Capital Outlay	1,306,300
Trustee and Benefit Payments	7,487,900
TOTAL	$24,054,300
FROM:	
General Fund	$ 3,996,500
Permanent Building Fund	6,768,600
Federal Surplus Property Revolving Fund	512,200
Employee Group Insurance Fund	665,800
Retained Risk Fund	428,400
Administrative Code Fund	538,400

Industrial Special Indemnity Fund	206,200
Indirect Cost Recovery Fund	790,000
Administration and Accounting Services Fund	10,105,300
Employee Assistance Program Fund	42,900
TOTAL	$24,054,300

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 classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. DIRECTOR'S OFFICE:					
FROM:					
General Fund	$ 173,600	$ 64,100			$ 237,700
Industrial Special Indemnity Fund	132,200	74,000			206,200
Indirect Cost Recovery Fund	599,800	190,200			790,000
Administration and Accounting Services Fund	21,600				21,600
TOTAL	$ 927,200	$ 328,300			$ 1,255,500
II. INFORMATION TECHNOLOGY & COMMUNICATIONS:					
FROM:					
General Fund	$ 726,300	$ 308,300	$ 146,200		$ 1,180,800
Administration and Accounting Services Fund	1,323,400	1,111,000	953,400		3,387,800
TOTAL	$2,049,700	$1,419,300	$1,099,600		$ 4,568,600
III. PUBLIC WORKS:					
FROM:					
General Fund				$1,967,900	$ 1,967,900
Permanent Building Fund	$1,202,200	$ 362,400	$ 30,000	5,174,000	6,768,600
Administration and Accounting Services Fund	1,269,500	2,890,800	15,500	346,000	4,521,800
TOTAL	$2,471,700	$3,253,200	$ 45,500	$7,487,900	$13,258,300
IV. PURCHASING:					
FROM:					
General Fund	$ 421,700	$ 134,000			$ 555,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Surplus Property Revolving Fund	208,200	244,000	$ 60,000		512,200
Administration and Accounting Services Fund	581,700	975,000	98,800		1,655,500
TOTAL	$1,211,600	$1,353,000	$ 158,800		$ 2,723,400
V. ADMINISTRATIVE RULES:					
FROM:					
Administrative Code Fund	$ 221,000	$ 317,400			$ 538,400
VI. INFORMATION TECHNOLOGY RESOURCE MANAGEMENT COUNCIL:					
FROM:					
General Fund	$ 54,400				$ 54,400
Administration and Accounting Services Fund	194,200	$ 322,000	$ 2,400		518,600
TOTAL	$ 248,600	$ 322,000	$ 2,400		$ 573,000
VII. OFFICE OF INSURANCE MANAGEMENT:					
FROM:					
Employee Group Insurance Fund	$ 234,500	$ 431,300			$ 665,800
Retained Risk Fund	314,800	113,600			428,400
Employee Assistance Program Fund	18,100	24,800			42,900
TOTAL	$ 567,400	$ 569,700			$ 1,137,100
GRAND TOTAL	$7,697,200	$7,562,900	$1,306,300	$7,487,900	$24,054,300

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Administration is authorized no more than one hundred seventy-one and sixty-hundredths (171.60) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 25, 1998.

CHAPTER 385
(H.B. No. 835)

AN ACT
RELATING TO CHILD PROTECTION; AMENDING SECTION 16-1610, IDAHO CODE, AS AMENDED BY SENATE BILL 1437, SECOND REGULAR SESSION OF THE FIFTY-FOURTH IDAHO LEGISLATURE, TO CORRECT TYPOGRAPHICAL ERRORS.

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

SECTION 1. That Section 16-1610, Idaho Code, as amended by Senate Bill 1437, Second Regular Session of the Fifty-fourth Idaho Legislature, 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:

(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;

(ii) reasonable efforts were not made because of immediate danger to the child;

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

(iv) reasonable efforts were not required as the parent had subjected the child to aggravated circumstances as determined by the court including, but not limited to: abandonment; torture; chronic abuse; sexual abuse; committed murder; committed voluntary manslaughter; aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; committed a felony assault that results in serious bodily injury to any child of the parent; or the parental rights of the parent to a sibling have been terminated involuntarily; and that as a result, a hearing to determine the permanent future plan for this child will be held within thirty (30) days of this determination. Reasonable efforts shall be made to place the child in a timely manner in accor-

dance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child. Whenever possible, the child's connections to the community, including individuals with a significant relationship to the child, religious organizations and community activities, will be maintained through the transition.

(3) The court shall make written findings that reasonable efforts to reunify are not required as the parent had subjected the child to aggravated circumstances including, but not limited to: abandonment; torture; chronic abuse; sexual abuse; committed murder; committed voluntary manslaughter; aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; committed a felony assault that results in serious bodily injury to the child or another child of the parent; or the parental rights of the parent to a sibling have been terminated involuntarily.

(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 or may concurrently contain reasonable efforts to place the child for adoption or with a legal guardian; 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 permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the state will file a petition for termination of parental rights, or referred for legal guardianship or, in cases where compelling reasons exist that it would not be in the best interest of the child to terminate parental rights, placed in another permanent living arrangement.

(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.

Approved March 25, 1998.

CHAPTER 386
(H.B. No. 836)

AN ACT

RELATING TO THE BOARD OF EXAMINERS; AMENDING CHAPTER 8, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-814A, IDAHO CODE, TO ALLOW THE BOARD OF EXAMINERS TO TRANSFER MONEYS FROM THE BUDGET RESERVE ACCOUNT TO THE GENERAL FUND AT FISCAL YEAR END UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Chapter 8, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 57-814A, Idaho Code, and to read as follows:

57-814A. TRANSFER FROM BUDGET RESERVE ACCOUNT TO GENERAL FUND. At the end of the fiscal year, if the state board of examiners determines that insufficient general fund moneys are available to meet the level of general fund appropriations authorized by the legislature for that same fiscal year, the board is hereby authorized to transfer certain unencumbered moneys from the budget reserve account to the general fund. Such transfers will be the final accounting adjustment to close the fiscal year and shall be limited to the amount of the insufficiency or one-half of one percent (.5%) of the original general fund appropriations made for the fiscal year just ending, whichever is less. Any transfer made pursuant to this section from the budget reserve account to the general fund shall be specifically addressed in the governor's executive budget recommendation for the following year which is then subject to review or action by the legislature.

Approved March 25, 1998.

CHAPTER 387
(H.B. No. 838)

AN ACT

APPROPRIATING ADDITIONAL MONEYS FOR THE DIVISION OF VOCATIONAL EDUCATION FOR FISCAL YEAR 1999; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO QUALIFICATIONS FOR FUNDING AS A PROFESSIONAL-TECHNICAL SCHOOL.

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

SECTION 1. In addition to any other appropriation made to the State Board for Vocational Education for the Division of Vocational Education, there is hereby appropriated $400,000 for Trustee and Benefit Payments from the General Fund to the State Board for Vocational Education, to be expended by the Division of Vocational Education General Programs program, for support of the added cost of professional-technical schools as established by Section 33-1002G, Idaho Code, as added by House Bill 510, as amended, Second Regular Session of the Fifty-fourth Idaho Legislature, for the period July 1, 1998, through June 30, 1999.

SECTION 2. It is the intent of the legislature that a set of cooperative service agency vocational-technical programs meeting the criteria outlined in the legislation and by the State Board for Vocational Education would meet the requirement of a separate site specified in House Bill 510, as amended, Second Regular Session of the Fifty-fourth Idaho Legislature.

Approved March 25, 1998.

CHAPTER 388
(H.B. No. 839)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 1999.

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

SECTION 1. In addition to any other appropriation, there is hereby appropriated to the Department of Law Enforcement the following amount, to be expended for Police Services Program according to the designated standard classifications from the listed fund for the period July 1, 1998, through June 30, 1999:

FOR:	
Personnel Costs	$31,900
Operating Expenditures	8,000
TOTAL	$39,900
FROM:	
General Fund	$39,900

Approved March 25, 1998.

CHAPTER 389
(H.B. No. 840)

AN ACT

RELATING TO THE CAPITAL CRIMES DEFENSE FUND AND THE STATE APPELLATE PUBLIC DEFENDER ACT; AMENDING CHAPTER 8, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-863A, IDAHO CODE, TO AUTHORIZE ESTABLISHMENT OF A CAPITAL CRIMES DEFENSE FUND BY THE COUNTIES TO FUND THE COSTS OF CRIMINAL DEFENSE IN CASES WHERE THE PENALTY OF DEATH IS A LEGAL POSSIBILITY, TO PROVIDE FOR ORGANIZATION AND OPERATION OF THE FUND IN ACCORDANCE WITH A JOINT POWERS AGREEMENT, TO PROVIDE FOR CONTRIBUTIONS TO THE FUND, TO PROVIDE FOR OPERATION OF THE FUND BY A BOARD OF REPRESENTATIVES, TO PROVIDE POWERS OF THE GOVERNING BOARD OF THE FUND AND TO PROVIDE THAT THE SERVICES OF THE STATE APPELLATE PUBLIC DEFENDER SHALL BE AVAILABLE ONLY TO COUNTIES PARTICIPATING IN THE FUND; AMENDING CHAPTER 8, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-867, IDAHO CODE, TO PROVIDE A SHORT TITLE; AMENDING CHAPTER 8, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-868, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE INTENT; AMENDING CHAPTER 8, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-869, IDAHO CODE, TO PROVIDE FOR CREATION OF THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER, TO PROVIDE FOR THE APPOINTMENT, QUALIFICATIONS, TERM AND COMPENSATION OF THE STATE APPELLATE PUBLIC DEFENDER AND TO PROVIDE FOR ADOPTION OF POLICIES AND RULES TO IMPLEMENT THE ACT; AMENDING CHAPTER 8, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-870, IDAHO CODE, TO PROVIDE THE POWERS AND DUTIES OF THE STATE APPELLATE PUBLIC DEFENDER; AMENDING CHAPTER 8, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-871, IDAHO CODE, TO PROVIDE FOR APPOINTMENT OF ADDITIONAL COUNSEL BY THE STATE APPELLATE PUBLIC DEFENDER; AMENDING CHAPTER 8, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-872, IDAHO CODE, TO PROVIDE FOR AN ANNUAL REPORT; AND AMENDING SECTION 67-5303, IDAHO CODE, TO PROVIDE THAT THE STATE APPELLATE PUBLIC DEFENDER, DEPUTY STATE APPELLATE PUBLIC DEFENDERS AND ALL EMPLOYEES OF THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER SHALL BE NONCLASSIFIED EMPLOYEES.

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

SECTION 1. That Chapter 8, 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 19-863A, Idaho Code, and to read as follows:

19-863A. CAPITAL CRIMES DEFENSE FUND AUTHORIZED. (1) The establishment of a capital crimes defense fund by the counties of the state for purposes of funding the costs of criminal defense in cases where the penalty of death is a legal possibility is hereby authorized. The fund shall be organized and operated in accordance with a joint powers agreement, as authorized by chapter 23, title 67, Idaho Code, executed by the participating counties. Membership in the fund shall be volun-

tary, as determined by resolution of the board of county commissioners of the respective counties of the state.

(2) The fund may be comprised of contributions from participating counties and any court fees or other funds designated or appropriated for deposit in the fund by the legislature.

(3) The fund shall be operated and administered by a board of representatives to be selected as provided in the joint powers agreement. If moneys are appropriated to the fund by the legislature, the governor shall appoint a representative of the executive branch of state government to serve as a voting member of the governing board, and if court fees are designated for deposit in the fund, the Idaho supreme court shall appoint a representative of the judicial branch of state government to serve as a voting member of the board.

(4) The governing board of the fund shall have full authority to employ personnel and contract for personal and professional services as necessary and may take all other steps necessary or proper to determine the manner in which the fund shall be utilized to assist participating counties in meeting defense costs associated with representation of indigent defendants charged with crimes for which the penalty of death is a legal possibility.

(5) The services of the state appellate public defender as provided in section 19-870, Idaho Code, shall be available only to those counties participating in the fund.

SECTION 2. That Chapter 8, 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 19-867, Idaho Code, and to read as follows:

19-867. SHORT TITLE. Sections 19-867 through 19-872, Idaho Code, shall be known as the "State Appellate Public Defender Act."

SECTION 3. That Chapter 8, 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 19-868, Idaho Code, and to read as follows:

19-868. STATEMENT OF LEGISLATIVE INTENT. The legislature recognizes that the cost of legal representation of indigent defendants upon the appeal of their criminal convictions, particularly convictions for first-degree murder, is an extraordinary burden on the counties of this state. In order to reduce this burden, provide competent counsel but avoid paying high hourly rates to independent counsel to represent indigent defendants in appellate proceedings, the legislature hereby creates the office of the state appellate public defender.

SECTION 4. That Chapter 8, 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 19-869, Idaho Code, and to read as follows:

19-869. CREATION -- APPOINTMENT -- QUALIFICATIONS -- TERM -- COMPENSATION. (1) The office of state appellate public defender is

hereby created in the department of self-governing agencies.

(2) The state appellate public defender shall be appointed by the governor, with the advice and consent of the senate, from a list of not less than two (2) nor more than four (4) qualified persons recommended by a committee consisting of the president of the Idaho state bar association, the chairman of the senate judiciary and rules committee and the chairman of the house judiciary, rules and administration committee and a citizen at large appointed by the governor. The chief justice of the Idaho supreme court, or her designee, shall be an ex officio member of the committee.

(3) The state appellate public defender shall be an attorney licensed to practice law in the state of Idaho and shall have a minimum of five (5) years' experience as a practicing attorney. The governor may prescribe such further qualifications as he deems necessary for the position.

(4) The state appellate public defender shall serve for a term of four (4) years, during which term he may be removed only for good cause, and shall be compensated in an amount determined by the governor.

(5) The state appellate public defender may adopt policies or rules necessary to give effect to the purposes of this act.

SECTION 5. That Chapter 8, 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 19-870, Idaho Code, and to read as follows:

19-870. POWERS AND DUTIES. (1) Subject to the provisions of subsection (2) of this section, the state appellate public defender, upon appointment by the court, shall provide representation for indigent defendants in felony criminal actions in the following cases:

(a) Appeals from convictions in district court;

(b) Appeals from the district court in post-conviction relief proceedings brought pursuant to the uniform post-conviction procedure act, chapter 49, title 19, Idaho Code;

(c) Appeals from the district court in habeas corpus proceedings brought pursuant to chapter 42, title 19, Idaho Code;

(d) Post-conviction relief proceedings in district court in capital cases.

(2) The services of the state appellate public defender shall be available only to those counties participating in the capital crimes defense fund established pursuant to section 19-863A, Idaho Code.

(3) The state appellate public defender may employ deputy state appellate public defenders and other employees necessary to carry out the responsibilities of the office. The state appellate public defender, in his discretion, may contract with private attorneys to provide representation on a case-by-case basis when such contracts would conserve budgetary resources.

(a) A deputy state appellate public defender must be licensed to practice law in the state of Idaho and possess any other qualifications required by the state appellate public defender.

(b) The state appellate public defender shall fix the compensation of all employees of the office and they shall serve at his

pleasure.

(c) The state appellate public defender, deputy state appellate public defenders and all employees of the office of the state appellate public defender shall be nonclassified employees, pursuant to section 67-5303, Idaho Code.

(4) The state appellate public defender shall have any and all other powers and duties necessary to carry out the purposes of this act, including the authority to promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code.

SECTION 6. That Chapter 8, 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 19-871, Idaho Code, and to read as follows:

19-871. APPOINTMENT OF ADDITIONAL COUNSEL. Should the state appellate public defender be unable to carry out the duties required in this act because of a conflict of interest or any other reason, the state appellate public defender shall arrange for counsel for indigent defendants to be compensated out of the budget of the state appellate public defender.

SECTION 7. That Chapter 8, 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 19-872, Idaho Code, and to read as follows:

19-872. ANNUAL REPORT. The state appellate public defender shall make an annual report to the state board of examiners, the supreme court, the legislature and all counties for whom the office has provided services concerning the cases handled by his office during the preceding year.

SECTION 8. That Section 67-5303, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

intendent of public instruction who are appointed on and after the effective date of this act.

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

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

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

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

(h) All employees of the Idaho state bar.

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

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

(k) Employees of the military division not assigned to the bureau of disaster services.

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

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

(n) Temporary employees.

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

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

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

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

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

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

(t) Any division administrator.

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

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

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

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

Approved March 25, 1998.

CHAPTER 390
(H.B. No. 841)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 1999.

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

SECTION 1. In addition to any other appropriation, there is hereby appropriated to the Department of Correction the following amount, to be expended for the Administration Division according to the designated standard classifications from the listed fund for the period July 1, 1998, through June 30, 1999:

FOR:	
Personnel Costs	$48,700
Operating Expenditures	13,100
Capital Outlay	7,900
TOTAL	$69,700
FROM:	
General Fund	$69,700

SECTION 2. In addition to the full-time equivalent positions authorized in Section 2, House Bill 821, as enacted by the Second Regular Session of the Fifty-fourth Idaho Legislature, the Department of Correction is authorized one (1) additional full-time equivalent position and no more than one thousand three hundred sixty-one and sixty-nine hundredths (1,361.69) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 25, 1998.

CHAPTER 391
(H.B. No. 726, As Amended)

AN ACT

RELATING TO JUVENILE CORRECTIONS; AMENDING CHAPTER 5, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-549, IDAHO CODE, TO PROVIDE THAT A VIOLATION BY A JUVENILE OF A CURFEW ESTABLISHED BY MUNICIPAL OR COUNTY ORDINANCE SHALL BE PUNISHABLE BY A FINE OR DETENTION OR BOTH, TO PROVIDE FOR DEPOSIT OF FINES, TO PROHIBIT DETENTION IN A COUNTY JAIL, TO PROVIDE THAT A PEACE OFFICER MAY ISSUE A CITATION FOR A CURFEW VIOLATION, TO REQUIRE ENDORSEMENT BY A PARENT OR LEGAL GUARDIAN ON THE CITATION IF POSSIBLE WITH THE EXERCISE OF REASONABLE DILIGENCE, TO PROVIDE FOR DELIVERY OR MAILING IN THE ALTERNATIVE, TO PROVIDE FOR SENTENCING, AND TO PROVIDE FOR JURISDICTION OVER THE PARENTS OR GUARDIAN OF THE JUVENILE VIOLATOR.

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

SECTION 1. 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 20-549, Idaho Code, and to read as follows:

20-549. CURFEW VIOLATIONS -- CITATION -- NOTIFICATION. Violation by a juvenile of a curfew established by a municipal or county ordinance shall be punishable by a fine not to exceed three hundred dollars ($300), detention, or both. Fines shall be deposited in the county juvenile justice fund of the county where the violation occurred, or if such a fund has not been established, then in the cur-

rent county expense account for juvenile corrections purposes in the county where the violation occurred. The imposition of detention shall be subject to the provisions of sections 20-520(1)(b) and 20-521, Idaho Code. Detention of a juvenile in a county jail for violation of a curfew is prohibited.

Any peace officer may issue a citation for violation of a curfew that shall thereafter be processed under the juvenile corrections act. Citations shall be issued on the Idaho uniform citation form. The peace officer issuing a curfew citation may detain the violator and at the time the citation is issued shall make a reasonable effort to obtain the endorsement of the juvenile's parent or legal guardian on the citation. If the endorsement of a parent or legal guardian cannot be obtained with the exercise of reasonable diligence, a copy of the citation shall be hand delivered or mailed to the juvenile's parent or legal guardian by a peace officer at least seven (7) days prior to the date set for the juvenile's appearance. The citation shall provide a date certain for the appearance before a magistrate of the juvenile and parent or legal guardian.

When sentencing a juvenile for violating a curfew, the court may also enter any order authorized in section 20-520, Idaho Code. The court shall have jurisdiction over the parent or legal guardian of the violator pursuant to section 20-522, Idaho Code.

Approved March 25, 1998.

CHAPTER 392
(H.B. No. 468, As Amended)

AN ACT

RELATING TO MOTOR VEHICLE LAW; AMENDING SECTION 49-106, IDAHO CODE, TO REDEFINE "EXTRAORDINARY CIRCUMSTANCES" TO DELETE A TIME REQUIREMENT FOR EXPIRATION OF A REGISTRATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-107, IDAHO CODE, TO DEFINE "FLEET REGISTRATION"; AMENDING SECTION 49-114, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-117, IDAHO CODE, TO REDEFINE "PRINCIPAL PLACE OF BUSINESS" TO DELETE EXCLUSION OF A GASOLINE SERVICE STATION; AMENDING SECTION 49-121, IDAHO CODE, TO REDEFINE "GENERAL TRAILER" TO DELETE A WEIGHT BEARING REQUIREMENT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-401A, IDAHO CODE, TO DELETE PROVISIONS FOR FLEET REGISTRATION AND RELATED REFERENCES AND TO INCREASE THE GROSS WEIGHT ON COUNTY REGISTERED BUSES TO TWENTY-SIX THOUSAND POUNDS; AMENDING SECTION 49-401B, IDAHO CODE, TO DELETE THE REQUIREMENT THAT A COUNTY ASSESSOR SHALL FORWARD COPIES OF REGISTRATION RECEIPTS TO THE DEPARTMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-402, IDAHO CODE, TO CLARIFY EXEMPTION FROM REGISTRATION FOR MOTORCYCLES AND ATVS; AMENDING SECTION 49-428, IDAHO CODE, TO CLARIFY DISPLAY OF LICENSE PLATES AND REGISTRATION STICKERS FOR CERTAIN VEHICLES, TO CORRECT A CODE CITATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-429, IDAHO CODE, TO CLARIFY DISPLAY OF COPY OF REGISTRATION PENDING RECEIPT OF LICENSE PLATES;

AMENDING SECTION 49-434, IDAHO CODE, TO PROVIDE FOR REGISTRATION OF FLEETS OF VEHICLES, TO CLARIFY REGISTRATION OF TRAILERS, SEMI-TRAILERS AND RENTAL UTILITY TRAILERS AND EXTENDED REGISTRATION OF VEHICLES, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-434A, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-436, IDAHO CODE, TO CORRECT CODE CITATIONS; AMENDING SECTION 49-437, IDAHO CODE, TO CLARIFY REGISTRATION OF CERTAIN VEHICLES WHEN THERE IS A CHANGE IN THE REGISTERED WEIGHT OF THE VEHICLE; AMENDING SECTION 49-443, IDAHO CODE, TO PROVIDE AN EXCEPTION FROM THE VALIDATION STICKER REQUIREMENT FOR SEVEN-YEAR TRAILER REGISTRATIONS; AMENDING SECTION 49-444, IDAHO CODE, TO CLARIFY REGISTRATION REQUIREMENTS FOR RECREATIONAL VEHICLES; AMENDING SECTION 49-449, IDAHO CODE, TO PROVIDE FOR CANCELLATION OF THE REGISTRATION OF A STOLEN VEHICLE; AMENDING SECTION 49-510, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS RELATING TO THE FILING OF LIENS WHICH ARE SPECIFIC TO THE TIME OF DAY SUCH LIENS ARE RECEIVED BY THE DEPARTMENT; AMENDING SECTION 49-514, IDAHO CODE, TO DELETE THE REQUIREMENT THAT A CERTIFICATE OF TITLE TO A VEHICLE REGISTERED IN A FOREIGN STATE MUST BE PRESENTED TO THE DEPARTMENT BEFORE A CERTIFICATE OF TITLE CAN BE ISSUED BY THIS STATE; AMENDING SECTION 49-1602, IDAHO CODE, TO PROVIDE DISCRETIONARY POWERS TO THE DEPARTMENT RELATING TO ISSUANCE OF VEHICLE DEALER AND SALESMAN LICENSES, TO PROVIDE FOR FILING A COPY OF THE CERTIFICATE OF AN ASSUMED BUSINESS NAME TO THE SECRETARY OF STATE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-1607, IDAHO CODE, TO DELETE PROVISION FOR PRORATING THE FEE FOR A VEHICLE DEALER'S LICENSE FEE; AMENDING SECTION 49-1611, IDAHO CODE, TO CLARIFY TERMINOLOGY RELATING TO VEHICLE DEALER'S AND SALESMAN'S LICENSES; AMENDING SECTION 49-1702, IDAHO CODE, TO DELETE REFERENCE TO MOTORCYCLE ENGINE NUMBER; AMENDING SECTIONS 49-1705 AND 49-1707, IDAHO CODE, TO DELETE REFERENCE TO MOTORCYCLE ENGINE NUMBER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-1803, IDAHO CODE, TO DELETE REFERENCE TO MOTORCYCLE ENGINE NUMBER; AMENDING SECTION 49-1814, IDAHO CODE, TO DELETE A NOTIFICATION REQUIREMENT RELATING TO DISPOSITION OF LOW-VALUED VEHICLES, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-1815, IDAHO CODE, TO DELETE REFERENCE TO MOTORCYCLE ENGINE NUMBER AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 49-1817, IDAHO CODE, TO PROVIDE FOR COLLECTION OF A FEE AS SPECIFIED BY LAW.

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

SECTION 1. That Section 49-106, Idaho Code, be, and the same is hereby amended to read as follows:

49-106. DEFINITIONS -- E.

(1) "Emergency vehicle." (See "Vehicle", section 49-123, Idaho Code)

(2) "Encumbrance." (See "Lien", section 49-113, Idaho Code)

(3) "EPA" means the environmental protection agency of the United States.

(4) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered, the removal, alteration

or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

(5) "Established place of business" means a place occupied either continuously or at regular periods by a dealer or manufacturer where his books and records are kept and a large share of his business is transacted.

(6) "Excessive" or "unusual noise" means any sound made by a passenger motor vehicle or a motorcycle at any time under any condition of grade, speed, acceleration or deceleration, which exceeds ninety-two (92) decibels, or any lower decibel level that is fixed by law or rules ~~and regulations~~ adopted by the board of health and welfare, on the "A" scale of a general radio company No. 1551-B sound level meter, or equivalent, stationed at a distance of not less than twenty (20) feet to the side of a vehicle or motorcycle as the vehicle or motorcycle passes the soundmeter or is stationed not less than twenty (20) feet from a stationary motor or engine.

(7) "Excessive speed" means any speed of fifteen (15) miles per hour or more above the posted speed limit, and is only for purposes of determining disqualification of commercial driving privileges.

(8) "Executive head," as used in chapter 20, means the governor of the state of Idaho.

(9) "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases with which the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(10) "Extraordinary circumstances" means any situation where an emergency exists or public safety is endangered, ~~and~~ or any situation in which a vehicle:

(a) Is blocking or impeding traffic; or

(b) Is causing a hazard; or

(c) Has the potential of impeding any emergency vehicle; or

(d) Is impeding any snow removal or other road maintenance operation; or

(e) Has been stolen but not yet reported as recovered; or

(f) Is not registered, or displays a license plate registration tag which has been expired. ~~for a period in excess of thirty (30) days.~~

SECTION 2. That Section 49-107, Idaho Code, be, and the same is hereby amended to read as follows:

49-107. DEFINITIONS -- F.

(1) "Factory branch" means a branch office maintained by a person who manufactures or assembles vehicles for sale to distributors or to dealers, or for directing or supervising, in whole or in part, its representatives.

(2) "Factory representative" means any person and each officer

motor vehicle registration, motor vehicle title or identification documents or other similar credentials issued by the department or other state or local agency.

SECTION 4. That Section 49-117, Idaho Code, be, and the same is hereby amended to read as follows:

49-117. DEFINITIONS -- P.

(1) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(2) "Park trailer." (See "Trailer", section 49-121, Idaho Code)

(3) "Part-time salesman" means any person employed as a vehicle salesman on behalf of a dealer less than thirty (30) hours per week.

(4) "Peace officer." (See section 19-5101(d), Idaho Code)

(5) "Pedestrian" means any person afoot and any person operating a wheelchair or a motorized wheelchair.

(6) "Pedestrian path" means any path, sidewalk or way set-aside and used exclusively by pedestrians.

(7) (a) "Person" means every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors, political subdivision, state or federal governmental department, agency, or instrumentality, and for the purposes of chapter 22 of this title shall include a private, common or contract carrier operating a vehicle on any highway of this state.

(b) "Person with a disability" means:

(i) A person who is unable to walk two hundred (200) feet or more unassisted by another person;

(ii) A person who is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair; or

(iii) A person who is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to the following impairments: neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb.

(8) "Personal information" means information that identifies an individual, including an individual's photograph or computerized image, social security number, driver identification number, name, address, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations, the five-digit zip code of the person's address, or status of the driver's license or motor vehicle registration.

(9) "Pneumatic tire." (See "Tires", section 49-121, Idaho Code)

(10) "Pole trailer." (See "Trailer", section 49-121, Idaho Code)

(11) "Possessory lien" means a lien dependent upon possession for compensation to which a person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the towing, storage, repair, or safekeeping of, any vehicle of a type subject to registration.

(12) "Possessory lienholder" means any person claiming a lien,

that lien claimed to have accrued on a basis of services rendered to the vehicle which is the subject of the lien.

(13) "Preceding year" means, for the purposes of section 49-435, Idaho Code, a period of twelve (12) consecutive months fixed by the department, prior to July 1 of the year immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(14) "Pressure regulator valve" means a device or system which governs the load distribution and controls the weight borne by a variable load suspension axle in accordance with a predetermined valve setting.

(15) "Principal place of business" means an enclosed commercial structure located within the state, easily accessible and open to the public at all reasonable times, with an improved display area large enough to display five (5) or more vehicles of the type the dealer is licensed to sell, immediately adjoining the building, and at which the business of a dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land-use regulatory ordinances, and in which building the public shall be able to contact the dealer or his salesmen in person or by telephone at all reasonable times, and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business. The principal place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event shall a room or rooms in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this title unless the entire ground floor of that hotel, apartment house, or rooming house building or dwelling house be devoted principally to and occupied for commercial purposes, and the office or offices of the dealer be located on the ground floor. ~~In no event shall premises devoted principally to the business of a gasoline service station be considered a "principal place of business" within the terms and provisions of this title.~~

(16) "Private property open to the public" means real property not owned by the federal government or the state of Idaho or any of its political subdivisions, but is available for vehicular traffic or parking by the general public with the permission of the owner or agent of the real property.

(17) "Private road" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(18) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars ($25,000) because of bodily injury to or death of one (1) person in any one (1) accident, and, subject to the limit for one (1) person, in the amount of fifty thousand dollars

($50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of fifteen thousand dollars ($15,000) because of injury to or destruction of property of others in any one (1) accident.

(19) "Proper authority" means a public highway agency.

(20) "Public highway agency" means the state transportation department, any city, county, highway district or any other state agency which has jurisdiction over public highway systems and public rights-of-way.

(21) "Public right-of-way" means a right-of-way open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic.

(22) "Public road jurisdiction" means a public highway agency.

(23) "Purchase." (See "Sell," "sold," and "buy," section 49-120, Idaho Code)

SECTION 5. That Section 49-121, Idaho Code, be, and the same is hereby amended to read as follows:

49-121. DEFINITIONS -- T.

(1) "Temporary supplemental lot" means a location other than the principal place of business, or supplemental lot within the same or adjacent county as the principal place of business, or where a licensed dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten (10) days for a specific purpose such as auto shows, auctions, shopping center promotions, tent sales, etc. Temporary supplemental lots shall meet all local zoning and building codes for the type of business being conducted. The requirements for a principal place of business shall not be applicable to temporary supplemental lot locations.

(2) "Tires" means:

(a) Metal. Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(b) Pneumatic. Every tire in which compressed air is designed to support the load.

(c) Snow tire. Every rubber tire with tread design or material embedded in the tire to improve winter traction except studded tires.

(d) Solid rubber. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(e) Studded tire. Every tire with built-in lugs of tungsten carbide or other suitable material designed to contact the road surface for improved winter traction.

(3) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

(4) "Traffic lane" or "lane of travel" means that portion of the roadway for movement of a single line of vehicles.

(5) "Traffic-control device" means any device, whether manually, electrically or mechanically operated, placed or erected by authority

of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

(6) "Trailer" means:

(a) General. Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. ~~and so constructed that no part of its weight rests upon the towing vehicle;~~

(b) Fifth-wheel trailer. A vehicular unit equipped in the same manner as a travel trailer but constructed with a raised forward section that allows a bi-level floor plan. This style is designed to be towed by a vehicle equipped with a device known as a fifth-wheel hitch, which is typically installed in the bed of a pickup truck.

(c) Fold down camping trailer. A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls, which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters, for recreational, camping or travel use.

(d) Park trailer. A trailer designed to be towed by a motorized vehicle, and of such size and weight as not to require a special highway movement permit. It is designed for seasonal or temporary living quarters and may be connected to utilities necessary for operation of installed fixtures and appliances. It is built on a single permanent chassis and constructed to permit set up by persons without special skills.

(e) Pole trailer. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(f) Semitrailer. Every vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle.

(g) Travel trailer. A vehicular unit, mounted on wheels designed to provide temporary living quarters for recreational, camping, travel or emergency use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle.

(h) Utility trailer. (See "Utility Trailer", section 49-122, Idaho Code)

(7) "Transportation", for the purposes of chapter 22 of this title, means the movement of any regulated quantity of hazardous material or hazardous waste within, through, or to any destination in this state upon the highways of this state.

(8) "Transporter" means every person engaged in the business of delivering vehicles of a type required to be registered from a manufacturing, assembling or distributing plant to dealers or sales agents of a manufacturer, except in chapter 22, where it means any person who transports a hazardous material or hazardous waste within, through, or to any destination upon the highways of this state.

(9) "Truck" means:

(a) Refuse/sanitation. Any vehicle designed and used solely for the purpose of transporting refuse.

(b) General. Every motor vehicle exceeding eight thousand (8,000) pounds gross weight designed, used or maintained primarily for the transportation of property.

(c) Pickup truck. Every motor vehicle eight thousand (8,000) pounds gross weight or less which is designed, used or maintained primarily for the transportation of property.

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

(e) Truck tractor. Every motor vehicle designed and used primarily for drawing other vehicles but not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(10) "True mileage driven" means the mileage of the vehicle as registered by the odometer within the manufacturer's designed tolerance.

SECTION 6. 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~~Every 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~~All other commercial, farm and noncommercial vehicles and the vehicles in paragraphs (a), (b), and (c) of this subsection, 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~~six thousand (24~~0~~6,000) 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,~~ c<u>C</u>ommercial, 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 7. That Section 49-401B, Idaho Code, be, and the same is hereby amended to read as follows:

49-401B. APPLICATION FOR REGISTRATION -- RECEIPT FOR FEE -- RECORD OF APPLICANTS. (1) Application for the registration of a vehicle required to be registered under the provisions of section 49-401A, Idaho Code, shall be made to the assessor or the department as specified in that section, by the owner upon the appropriate form. Every application shall be signed by the owner and contain his residence address and a brief description of the vehicle to be registered, including the name of the maker, the type of fuel used, and the identification number. Upon registration of a new vehicle, the application shall also show the date of sale by the manufacturer or dealer to the person first operating such vehicle. The application shall contain any other information as may be required by the department. The assessor shall issue to the applicant a receipt for any fee paid~~, and shall forward to the department a duplicate copy of that receipt~~.

(2) The assessor shall record on a form prescribed and furnished by the department, the names of all owners of vehicles residing in the county who make application for registration, together with the amounts of the fees paid by such owners.

(3) When application for registration is made by any motor carrier as defined in section 61-801, Idaho Code, or by any interstate carrier as defined in section 61-801A, Idaho Code, the assessor or the department shall require each such applicant to exhibit a receipt for the payment of the regulatory fee required of any motor carrier by section 61-811, Idaho Code, or evidence of the payment of the registration fee of any interstate carrier required by section 61-802B and section 61-812, Idaho Code. The number and the amount paid shall be noted on the application. Pursuant to the authority and duty provided in section 61-811A, Idaho Code, each assessor and the department, shall when the regulatory fees of motor carriers and the registration fees of interstate carriers have not been paid prior to registration, collect such regulatory fees for the public utilities commission. Each assessor and the department shall monthly submit a list of all carriers paying fees and remit monthly all fees to the Idaho public utilities commission no later than the tenth day of each month following collection.

(4) Vehicles registered under the proportional registration provisions of section 49-435, Idaho Code, shall be registered by the department.

(5) Every owner of a vehicle registered by a county assessor shall give his principal residence or ~~domicle~~ domicile address to the assessor so that the proper county can be entered upon the registration. Failure to do so shall be unlawful. The department shall then attribute the registration, and all fees to be apportioned to the highway distribution account, to the county of residence regardless of the county in which the registration occurred. Fees imposed under the provisions of sections 40-827 and 40-1416, Idaho Code, shall be separately identified and accounted for, and paid to the highway district for which collected. For the purposes of vehicle registration, a person is an actual and permanent resident of the county in which he has his principal residence or domicile. A principal residence or domi-

cile shall not be a person's workplace, vacation, or part-time residence.

(6) A violation of the provisions of this section shall be an infraction.

SECTION 8. 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 $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 $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 $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 $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 $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 numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 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. Registration exemptions provided in section 49-426(2), Idaho Code, apply to all-terrain vehicles and motorcycles used for the purposes described in that subsection (2).

(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 for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416 and 49-418, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars ($25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-417 and 49-417A, Idaho Code, there shall be an initial program fee of thirty-five dollars ($35.00) and an annual program fee of twenty-five dollars ($25.00).

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 9. That Section 49-428, Idaho Code, be, and the same is hereby amended to read as follows:

49-428. DISPLAY OF PLATE AND STICKERS. (1) License plates assigned to a motor vehicle~~,--other-than-a-motorcycle,-all-terrain vehicle,-trailer,-or-semitrailer,-and-other--than--the--license--plate assigned--to--a-motor-vehicle-operated-by-a-manufacturer,-repossession agent-or-dealer,~~ shall be attached, one in the front and the other in the rear~~.~~, with the exception of the following:

(a) The license plate assigned to a motorcycle, all-terrain vehicle or semitrailer and the license plate assigned to a motor vehicle operated by a manufacturer, repossession agent or dealer shall be attached to the rear.

(b) Vehicles displaying year of manufacture, old timer, classic car or street rod license plates shall be allowed to display one (1) plate attached to the rear of the vehicle.

(c) The license plate attached to a tractor shall be attached to the front.

License plates shall be displayed during the current registration year. The annual registration sticker for the current registration year shall be displayed on each license plate, except for trailers and semitrailers on extended registration under the provisions of section 49-434, Idaho Code. For the purposes of this title, the license plates together with the registration stickers shall be considered as license plates for the year designated on the registration sticker.

(2) Every license plate shall at all times be securely fastened to the vehicle to which it is assigned to prevent the plate from swinging, be at a height not less than twelve (12) inches from the ground, measuring from the bottom of the plate, be in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible, and all registration stickers shall be securely attached to the license plates and shall be displayed as provided in section 49-443(~~5~~4), Idaho Code.

SECTION 10. That Section 49-429, Idaho Code, be, and the same is hereby amended to read as follows:

49-429. DISPLAY OF COPY OF APPLICATION PENDING RECEIPT OF LICENSE PLATE. ~~Upon-the~~ When an owner chooses to display special license plates, upon payment of required fees ~~by-the-owner-of-a-vehicle~~ the ~~assessor-or~~ department or the assessor shall issue to the applicant a copy of the application. The copy must be displayed in a suitable place on the ~~windshield~~ rear window of a motor vehicle, or if ~~for~~ a ~~trailer--or-semitrailer,-then-transported-in-the-motor-vehicle-drawing such-trailer-or-semitrailer~~ motorcycle, displayed on the motorcycle. The copy shall constitute compliance with the provisions of this chap-

ter until such time as the license plates are received from the department. The copy of the application shall not have any value as compliance with the provisions of this chapter from and after the receipt of the license plates from the department.

SECTION 11. That Section 49-434, Idaho Code, be, and the same is hereby amended to read as follows:

49-434. OPERATING FEES. (1) There shall be paid on all commercial vehicles, noncommercial vehicles, and on all farm vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee in accordance with the following schedule.

Maximum Gross Weight (Pounds)	~~Annual Reigstration~~ Annual Registration Fee Noncommercial and Farm Vehicles	Commercial Vehicles
8,001-16,000 inc.	$ 31.08	$ 30.60
16,001-26,000 inc.	61.08	143.40
26,001-30,000 inc.	91.68	223.80
30,001-40,000 inc.	130.08	291.60
40,001-50,000 inc.	188.28	360.00
50,001-60,000 inc.	311.88	515.40

(2) There shall be paid on all commercial vehicles, irrespective of body type, and on all farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, an annual registration fee in the amount of one hundred twenty dollars ($120).

(3) In addition, ~~an~~ the annual registration fee for trailers shall be: ~~required for each~~

(a) ~~t~~Trailer or semitrailer in a combination of vehicles ~~in the amount of fifteen dollars~~ .....~~($15.00),~~

(b) Rental utility trailer with a gross weight of two thousand (2,000) pounds or less $8.00

(c) Rental utility trailer with a gross weight over two thousand (2,000) pounds $15.00

(4) As an option to the trailer and semitrailer annual registration, the department may provide extended registration.

(a) For trailers and semitrailers, t~~T~~he optional extended-registration period shall not extend beyond seven (7) years.

(b) The fee shall be fifteen dollars ($15.00) for each year.

(c) The license plate originally issued shall remain on the trailer or semitrailer until the registration expires.

(d) The registration document shall be the official record of the status of the extended registration. No pressure-sensitive validation sticker shall be required.

(e) For rental utility trailers, the optional registration period shall not extend beyond five (5) years. The fee shall be as specified in subsection (3)(b) or (c) of this section. A pressure-sensitive sticker shall be used to validate the license plate. The license plate shall become void if the owner's interest in the rental utility trailer changes during the five (5) year period. If the owner fails to enter the rental utility trailer on the annual renewal application during the five (5) year period, the registration record shall be purged. Any unrenewed plate shall be returned to the department if it is not entered on the renewal application.

(5) A fleet registration option is available to owners who have twenty-five (25) or more commercial or farm vehicles or any combination thereof. Such owners may register all of their company vehicles with the department in lieu of registering with a county assessor. To qualify the fleet must be owned and operated under the unified control of one (1) person and the vehicles must be physically garaged and maintained in two (2) or more counties. Fleet registration shall not include fleets of rental vehicles. The department shall provide a registration application to the owner and the owner shall provide all information that the department determines is necessary. The department shall devise a special license plate numbering system for fleet-registered vehicles as an alternative to county license plates. The fleet registration application and all subsequent registration renewals shall include the physical address where a vehicle is principally used, garaged and maintained. The fleet owner shall report the physical address to the department upon initial registration, on each renewal, and at any time a vehicle registered under this option is permanently transferred to another location.

(6) If the ownership of a ~~trailer or semitrailer~~ vehicle changes during the ~~extended~~ registration period, the original owner may transfer the plate to another vehicle. The remaining fee shall be credited against the cost of the new registration. No refunds shall be given for any unexpired portion of the ~~trailer or semitrailer~~ vehicle registration fee if the plate is not transferred by the owner to another ~~trailer~~ vehicle. ~~An extended~~ license plate shall not be transferred to another owner when the ownership of a ~~trailer or semitrailer~~ vehicle changes.

~~(e) A sticker validating the extended registration shall be affixed to the license plate.~~ The owner shall obtain a replacement plate, validation sticker if required, and a registration document ~~from the department~~ when a plate is lost, destroyed or becomes illegible.

~~(4) An annual registration fee of eight dollars ($8.00) shall be required for each rental utility trailer having a maximum laden or gross weight of up to two thousand (2,000) pounds, or fifteen dollars ($15.00) for each rental utility trailer having a maximum laden or gross weight in excess of two thousand (2,000) pounds.~~

~~(a) For a fee of eight dollars ($8.00) or fifteen dollars ($15.00) per year, as applicable, for each rental utility trailer, the department may issue a rental utility trailer license plate that shall remain valid for a period of five (5) years.~~

~~(b) The license plate shall become void if the owner's interest in the rental utility trailer changes during the five (5) year period.~~

~~(c) If the owner fails to enter the rental utility trailer on the annual renewal application during the five (5) year period, the registration record shall be purged. Any unrenewed, unexpired plate shall be returned to the department if it is not entered on the renewal application.~~

(5~~7~~) An administrative fee of four dollars ($4.00) shall be paid and deposited to the state highway account on all registrations completed by the department under this section.

(6~~8~~) In addition to the registration and license fees provided by

subsections (1) and (2) of this section, there shall be paid on all commercial vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee based upon the registered maximum gross weight in accordance with the following schedule. The use fees shall be calculated by multiplying the mills per mile, determined from the mills per mile schedule table, times the reported mileage for the vehicle, subject to the provisions of this section.

Maximum Gross Weight of Vehicle (Pounds)	Mills per Mile
60,001-62,000	30.05
62,001-64,000	31.35
64,001-66,000	32.60
66,001-68,000	33.90
68,001-70,000	35.15
70,001-72,000	36.40
72,001-74,000	38.55
74,001-76,000	40.65
76,001-78,000	42.75
78,001-80,000	44.90
80,001-82,000	47.00
82,001-84,000	49.10
84,001-86,000	51.20
86,001-88,000	53.30
88,001-90,000	55.40
90,001-92,000	57.50
92,001-94,000	59.60
94,001-96,000	61.70
96,001-98,000	63.80
98,001-100,000	65.90
100,001-102,000	68.00
102,001-104,000	70.10
104,001-106,000	72.20

For each additional two thousand (2,000) pounds or fraction thereof in excess of one hundred six thousand (106,000) pounds add 2.1 mills per mile.

(~~7~~9) In addition to the registration and license fees of this section, there shall be paid on all farm vehicles, and any commercial vehicle exclusively engaged in the transportation of logs, pulp wood, stull, poles, piling, rough lumber, ores, ore concentrates, sand and gravel aggregates in bulk, livestock and vehicles used for the sole purpose of transporting milk from the farm to processing plant, having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee in accordance with the following schedule. The use fees shall be calculated by multiplying the mills per mile, determined from the mills per mile schedule table, times the reported mileage for the vehicle, subject to the provisions of this section.

Maximum Gross Weight of Vehicle (Pounds)	Mills per Mile
60,001-62,000	22.45
62,001-64,000	22.45
64,001-66,000	22.45

66,001-68,000	22.45
68,001-70,000	22.45
70,001-72,000	22.45
72,001-74,000	22.45
74,001-76,000	22.45
76,001-78,000	22.45
78,001-80,000	22.45
80,001-82,000	24.55
82,001-84,000	26.65
84,001-86,000	28.75
86,001-88,000	30.85
88,001-90,000	32.95
90,001-92,000	35.05
92,001-94,000	37.15
94,001-96,000	39.25
96,001-98,000	41.35
98,001-100,000	43.45
100,001-102,000	45.55
102,001-104,000	47.65
104,001-106,000	49.75

For each additional two thousand (2,000) pounds or fraction thereof in excess of one hundred six thousand (106,000) pounds add 2.1 mills per mile.

(~~8~~10) If any vehicle, or combinations of vehicles move on the highways of the state, and the vehicle or combination exceeds its registered maximum gross weight there shall be paid for that vehicle, the fees provided for in either subsection (~~6~~8) or (~~7~~9) of this section, as applicable, for the actual gross weight of the vehicle or combination of vehicles for the miles traveled at the heavier weight.

(~~9~~11) If any vehicle or combinations of vehicles haul nonreducible loads, as authorized under the provisions of section 49-1004, Idaho Code, then and in that event there shall be paid for that vehicle, in addition to the other fees required in this section, an additional use fee of 2.1 mills per mile for each two thousand (2,000) pounds or fraction thereof of the maximum gross weight in excess of those set forth in section 49-1001, Idaho Code.

(~~10~~2) Any owner operating vehicle combinations may apply to the department for authority to report multiple weights and pay use fees based upon the maximum gross weight of each configuration in the combination being operated. The owner shall declare a maximum gross weight for each configuration being operated but not more than three (3) maximum gross weights for a vehicle combination may be declared. Any owner who receives authority to report and pay use fees at multiple maximum gross weights shall register the motor vehicle in a combination at the highest maximum gross weight of the vehicle. Any owner who reports vehicle combinations at multiple weights and fails to maintain records and furnish said records to the department upon request which show the configuration of the combination of vehicles and the trailer and unit number for all miles and trip segments traveled shall have all miles assessed at the highest maximum gross weight of the combination of vehicles.

(~~1~~3) An applicant for registration of a commercial vehicle, a noncommercial vehicle or a farm vehicle shall set forth the maximum

gross weight of the vehicle or combination of vehicles and the applicant shall pay any annual registration fees and any annual license fees on trailers and semitrailers required at the time he makes application for registration subject to the provisions of subsections (1), ~~and~~ (2), (3) and (4) of this section. No part of the registration or license fees shall be subject to refund. The use fee payment required shall be computed according to the schedule in either subsection (6~~8~~) or (~~7~~9) of this section on the mileage operated over the highways of the state of Idaho and the owner of any vehicle against which a use fee is assessed, shall at the time of making his next quarterly report pay the use fee, if any, for the three (3) calendar months immediately prior. In determining the mileage subject to the use fee, there shall be deducted the miles traveled on roadways maintained with private funds by agreement with the public agency or agencies having jurisdiction over them. In no event shall the total money credited to the owner for the mileage exceed the actual cost of maintenance expended by him.

(1~~2~~4) Any owner who operates or intends to operate non-Idaho based vehicles in Idaho that are subject to the use fee required under the provisions of this section shall apply for a use fee account before operating the vehicles in Idaho. In lieu of establishing a use fee account the owner may purchase a trip permit under the provisions of section 49-432 or 49-433, Idaho Code, as applicable. The department shall develop rules to administer the use fee account. Any owner who has not established a use fee account or has not purchased a trip permit prior to operating in Idaho shall have committed an infraction.

SECTION 12. That Section 49-434A, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

SECTION 13. That Section 49-436, Idaho Code, be, and the same is hereby amended to read as follows:

49-436. QUARTERLY REPORTS -- MAINTAINING RECORDS -- PENALTIES -- DEPOSIT OR BOND TO SECURE PAYMENT OF FEES -- APPEAL. (1) Not later than the last day of April, and on the last day of each third calendar month thereafter, each owner of a commercial or farm vehicle having a maximum combined gross weight in excess of sixty thousand (60,000)

pounds, shall file with the department a statement of the gross miles each vehicle has traveled over the highways of the state of Idaho for the preceding calendar months of the year for which that report is made. Each report shall be cumulative of all miles traveled during all calendar months in that year for which the report is made.

(2) Every owner whose fees are computed as specified in section 49-434, Idaho Code, shall maintain records and permit the department to inspect the records upon request to substantiate the following:

(a) The actual miles traveled over Idaho highways.

(b) Identification of the commodities hauled if using the schedule in section 49-434(5~~9~~), Idaho Code.

(c) Reporting at multiple weights pursuant to section 49-434, Idaho Code.

(d) If an owner registers a vehicle or combination of vehicles at a weight in excess of sixty thousand (60,000) pounds and the registered maximum gross weight is less than the weight allowable under the provisions of section 49-1001, Idaho Code, for that vehicle or combination of vehicles, then the owner must maintain and provide to the department on demand records of the vehicle or combination of vehicles actual gross weight and the configuration of the combination of vehicles for all miles traveled. If the owner fails to maintain and produce such records then all miles for the vehicle or combination of vehicles will be assessed at the highest weight the vehicle or combination of vehicles could legally operate pursuant to section 49-1001, Idaho Code. If an owner registers a vehicle or combination of vehicles at a weight in excess of sixty thousand (60,000) pounds and the registered maximum gross weight is equal to or exceeds the weight allowable under the provisions of section 49-1001, Idaho Code, for that vehicle or combination of vehicles then the owner is not required to maintain actual gross weight records of the vehicle or combination of vehicles. Owners may voluntarily report quarterly the weight hauled in excess of registered maximum gross weight and may pay use fees for such voluntarily reported weight without penalty.

(e) Overweight travel authorization fees as set forth in section 49-1001, Idaho Code, shall be remitted quarterly.

(3) When the records are maintained outside this state by owners engaged in transportation in this state, the owner shall reimburse the department for reasonable expenses incurred by the department in making audits of those records and accounts at the out-of-state location. The owner or the department may request that the records be presented at a place within the state designated by the department. The records must be presented by a representative of the owner familiar with the records and who is responsible for the safekeeping of the records. Every owner is required to maintain records for four (4) years from the due date of the quarterly report unless the department and the owner agree in writing to shorten or lengthen the time period. The amount of fees imposed in this chapter shall be assessed within four (4) years after the due date of the quarterly report unless the department and owner agree in writing to lengthen the time period. If an assessment has been made, such fees may be collected by a proceeding in court within a period of three (3) years after the assessment or a final order entered pursuant to subsection (10) of this section.

(4) Owners of commercial and farm vehicles using the registration fee schedules in section 49-434(1), Idaho Code, are subject to audit to determine if the proper schedule is being used. If the weight classification being used is found to be understated, the difference between the registration fees paid and the registration fees due will become due and payable. If the vehicles are found to be operating in excess of sixty thousand (60,000) pounds gross weight, the difference between the registration fees paid under section 49-434(1), Idaho Code, and the amount that would have been due under the use fee schedule in section 49-434(~~4~~8) or (~~5~~9), Idaho Code, will be determined and the balance due, if any, will be collected. If an owner registers a vehicle or combination of vehicles at a weight less than the weight allowable under the provisions of section 49-1001, Idaho Code, for that vehicle or combination of vehicles then the owner must maintain vehicle gross weight records in addition to the mileage records and allow the department to inspect the vehicle gross weight and mileage records.

(5) Owners using the use fee schedules in section 49-434(~~4~~8) and (~~5~~9), Idaho Code, are subject to audit to determine if the proper use fee schedule and weight classification is being used and if all miles traveled on Idaho highways have been reported. If the operating weight, as determined from citations issued for exceeding weight limitations specified in title 49, Idaho Code, exceeds the registered maximum gross weight, the additional use fees for the miles traveled at the heavier weight, if not already paid, shall become due and payable.

(6) An owner who fails to maintain records as required by the provisions of this section may have the registration of all vehicles registered under sections 49-434 and 49-435, Idaho Code, suspended until such time as adequate records as required by the provisions of this section are provided. In the event that the owner does not produce records, the department may make an assessment of fees due based on an estimate of the operation. The department shall promulgate rules specifying the methodology used to determine an assessment based on an estimate of the operation. There shall be added to every such estimated assessment a penalty of two percent (2%) per month or fraction thereof after the report was required to be filed or the fee became due up to a maximum penalty of thirty-six percent (36%) of the fee due. Upon payment of the estimated assessment and all other fees due and owing including the reinstatement fee the owner's registration shall be reinstated.

(7) An owner who fails to file any reports or pay any fees or penalties due is subject to suspension of their vehicle registrations. An order suspending the vehicle registrations shall be mailed to the owner upon discovery of the deficiency by the department. The suspension shall be lifted if the reports are filed and the payments due are made, along with a reinstatement fee of forty dollars ($40.00) per carrier within fifteen (15) days after receipt of the suspension order. The reinstatement fees shall be deposited to the state highway account. The owner shall have the right to appeal the suspension by petitioning the department for a hearing within ten (10) days after receipt of the suspension order. If the suspension is set aside the reinstatement fee shall not be due.

(8) An owner failing to file a mileage report or pay any fee due

within the time required as specified in this section, shall in addition to the amount of the fee pay a penalty of ten percent (10%) of the amount of fee determined to be due, plus the interest of one percent (1%) of the amount of the use fees due for each month or fraction thereof after the report was required to be filed or the fee became due, but the department may remit all or any part of the penalty and interest if satisfied that the delay was excusable. The department shall promulgate rules specifying when the penalty may be held in abeyance or forgiven.

(9) (a) If the department finds it necessary in order to ensure the collection of any fees or penalties imposed upon an owner, it may at the time and as a condition of granting a registration or to reinstate a registration require an owner to deposit and keep on deposit with the department a sum equal to the estimated fees computed under the schedule in section 49-434, Idaho Code, for a period of not to exceed three (3) months. In determining the necessity for an applicant or owner to maintain a deposit the department shall consider the applicant or owner's financial capability and responsibility and prior experience, if any, in collecting fees or penalties from the applicant, owner or any person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the registration.

(b) The department may accept in lieu of a deposit a bond to secure payment of sums payable by the owner. The total amount of the deposit or bond shall be determined by the department in a manner as it shall deem proper, taking into account the nature and scope of the owner's operations. The amount may be increased or reduced at any time.

(c) If an owner ceases to be registered under the provisions of this chapter, the department, upon receipt of all payments due, shall refund to the owner all deposits remaining to the owner's credit and shall release the surety on any bond given under this section.

(d) Any applicant or owner required to make a deposit to secure the payment of fees or penalties may by proper petition demand a hearing on the necessity of the deposit or the reasonableness of the amount required. A hearing shall be granted and held within ten (10) days after the demand. The decision of the director shall become final ten (10) days after service of the order upon the applicant or owner concerned. Notice shall be served personally or by certified mail addressed to the applicant or owner at his address as it appears in the records of the department. An appeal may be taken from any decision of the department as from the decision of the magistrate's division to the district court.

(10) An owner wishing to contest an assessment made by the department may within thirty (30) days from receipt of the assessment file an appeal with the department. Upon receipt of an appeal the director or his authorized representative shall schedule an informal conference between the owner and a representative of the department. The informal conference must be conducted within twenty (20) days from the date of receipt of notice of intent to appeal from the owner. The owner and the representative of the department shall reduce all conclusions,

agreements and decisions to writing, if an informal conference is held, but attendance at and participation in the informal conference is at the option of the owner. If an informal conference is held, the written report of the results of that conference shall be provided to the director within ten (10) days. If the results of the informal conference are not satisfactory to the owner, he may continue with the appeal by informing the director in writing, and the director or his authorized representative shall appoint a hearing officer to conduct a contested case hearing in accordance with chapter 52, title 67, Idaho Code. The hearing officer may subpoena witnesses and evidence and administer oaths. The hearing officer shall prepare written findings of fact and conclusions of law for the director or his authorized representative. Upon receipt of findings of fact and conclusions of law the director or his authorized representative shall issue a final order affirming, modifying or reversing the original assessment. All final orders rendered by the director or his authorized representative shall be appealable in accordance with chapter 52, title 67, Idaho Code.

SECTION 14. That Section 49-437, Idaho Code, be, and the same is hereby amended to read as follows:

49-437. INCREASE IN MAXIMUM GROSS WEIGHT -- FEES FOR REMAINING PORTION OF YEAR. (1) When a motor vehicle~~,-trailer-or-semitrailer~~ registered under section 49-434 or 49-435, Idaho Code, has once been registered ~~under--the--provisions-of-this-chapter~~ and during the year of that registration ~~engages-in-operations-increasing~~ increases the maximum gross weight, ~~for-which-that-vehicle-was-registered-and--requiring additional--fees,--the-owner-of-the-vehicle-shall-be-credited-with-the amount-already-paid-toward-the-account-of-the-higher-fee-or-fees.-When the-initial-registration-is-made-before-August-1st-and-the-increase-in gross-weight-is-also-made-before-August-1st,-the-applicant--shall--pay the--full--amount--of--the-additional-fees-computed-as-of-the-original registration-date;-if-the-increase-is--made--between--August--1st--and November-1st,-one-half-(1/2)-of-the-additional-fees-shall-be-paid;-and if--the--increase-is-made-after-November-1st,-one-fourth-(1/4)-of-such additional-fees-shall-be-paid.-When-the-initial-registration--is--made between--August-1st-and-November-1st,-and-the-increase-in-gross-weight is-made-before-November-1st,-the-applicant-shall-pay-the--full--amount of--such-additional-fees-computed-as-of-the-initial-registration-date; if-the-increase-is-made-after-November-1st,--one-half--(1/2)--of--such additional--fees--shall-be-paid.-When-the-initial-registration-is-made after-November-1st-the-applicant-shall-pay-the--full--amount--of--such additional--fees--computed--as--of--the--initial-registration-date~~ the higher fee due for the weight increase shall be offset by the fee already paid. The fee already paid and the fee due shall be prorated by one-twelfth (1/12) for each month already expired in the registration year. The difference between the two (2) fees shall be the balance due for the remainder of the registration year. If an owner decreases the weight during a registration year, the weight decrease shall not result in a refund of the fees already paid.

(2) If a motor vehicle~~,-trailer-or-semitrailer~~ is not operated on any highway during the first months of a calendar year, ~~they~~ the owner

may at any time thereafter be registered for the remainder of the year on payment of all fees as provided in this chapter, less one-twelfth (1/12) of such fees ~~and mileage~~ for each full calendar month which has expired prior to registering, but in no event shall the minimum fee be less than five dollars ($5.00).

SECTION 15. 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 or the department 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 vehicles registered under the provisions of section 49-406, 49-406A or 49-408, Idaho Code, or a motorcycle, trailer, truck-tractor, or semitrailer, and two (2) license plates for every other motor vehicle. If a vehicle is issued one (1) plate only, that plate shall be displayed ~~on the rear of the vehicle~~ in accordance with the provisions of section 49-428, Idaho Code. For vehicles registered under the provisions of section 49-407, Idaho Code, the applicant shall provide one (1) plate to be displayed on the rear of the 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 seventy-five (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. 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, except for trailers and semitrailers registered under the optional seven (7) year trailer provisions in section 49-434, Idaho Code. 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 16. That Section 49-444, Idaho Code, be, and the same is hereby amended to read as follows:

49-444. RECREATION VEHICLE REGISTRATION. An applicant for a r~~R~~ecreational vehicle~~s~~ registration shall be ~~registered as provided in this chapter before a county assessor can issue~~ required to obtain a recreational vehicle annual license as provided in sections 49-445 through 49-448, Idaho Code, in conjunction with the registration. Truck campers need not be registered before the county assessor can issue a recreational vehicle annual license.

SECTION 17. That Section 49-449, Idaho Code, be, and the same is hereby amended to read as follows:

49-449. ~~SUSPENSION~~ CANCELLATION OF REGISTRATION UPON NOTICE OF THEFT. ~~OR EMBEZZLEMENT.~~ Whenever the owner of any motor vehicle, trailer or semitrailer which is stolen ~~or embezzled~~ files an affidavit with a law enforcement agency alleging ~~either~~ such fact, ~~with the department,~~ the department shall ~~immediately suspend~~ cancel the registration of such vehicle ~~and shall not transfer the registration of or register such vehicle until the department shall be notified that~~ upon the request of the owner. ~~has recovered the vehicle.~~

SECTION 18. 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 twenty (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~~ lienholder 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~~ lienholder 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.

SECTION 19. That Section 49-514, Idaho Code, be, and the same is hereby amended to read as follows:

49-514. TRANSFER OF OWNERSHIP BY OPERATION OF LAW -- LIENS -- VEHICLES REGISTERED IN FOREIGN STATE -- CERTIFICATES OF TITLE. In the event of the transfer of ownership of a vehicle by operation of law, as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, or execution sale, or whenever a vehicle is sold to satisfy storage or repair charges, or if the interest of the owner is terminated or the vehicle is sold under a security agreement, the department may upon the surrender of the prior certificate of title, or when that is not possible, upon presentation of satisfactory proof to the department of ownership and right to possession of the vehicle and presentation of an application for a certificate of title, issue to the applicant a certificate of title. Only an affidavit by the person or agent of the person to whom possession of the vehicle so passed, setting forth facts entitling him to possession and ownership, together with a copy of the journal entry, court order or instrument upon which the claim of possession and ownership is founded, shall be considered satisfactory proof of ownership and right of possession. If the applicant cannot produce proof of ownership he may apply directly to the department and submit any evidence as he may have, and the department shall, if it finds the evidence sufficient, issue a certificate of title to the applicant.

If from the records in the office of the department there appears to be any prior lien or liens on the vehicle, the certificate of title shall contain a statement of those liens, unless the application is accompanied by proper evidence of their satisfaction or discharge.

~~In the case of a vehicle registered in a foreign state the appli-~~

~~cant-for-a-certificate-of-title-under-the-provisions-of--this--section must--present-to-the-department-a-certificate-of-title-properly-issued to-the-applicant-under-the-laws-of-the-foreign-state-before--he--shall be-entitled-to-a-certificate-of-title-issued-by-the-department.~~

Upon the death of the owner of one (1) or more registered vehicles, the following heirs of the owner, to wit: the surviving spouse, the children, lawful issue of the deceased children, the parents, the brothers or sisters, or the guardian of the estate of any minor or insane or incompetent person having such relationship to the owner, if such person has a right to succeed to the property of the owner, may secure a transfer of the certificate or certificates of title of the owner to the vehicle or vehicles, upon presenting to the department the appropriate certificate or certificates of title, if available, and an affidavit of the person or persons setting forth the fact of survivorship or heirship, the names and addresses of any other heirs, that the decedent died intestate, that the decedent has no creditors, that the decedent did not leave other property necessitating probate, and if required by the department, a certificate of the death of the deceased. The department, when satisfied of the genuineness and regularity of the transfer, shall transfer the registrations and titles accordingly.

SECTION 20. That Section 49-1602, Idaho Code, be, and the same is hereby amended to read as follows:

49-1602. ADMINISTRATION -- POWERS AND DUTIES. The department shall:

(1) Issue, and for reasonable cause shown, refuse to issue an applicant any license authorized under the provisions of this chapter. The department ~~shall-not~~ may refuse to issue a license to any applicant, other than a partnership or corporation, ~~a-license~~ if the applicant ~~has--complied~~ fails to comply with the terms and provisions of this chapter ~~and~~ or the rules ~~and-regulations~~ of the board, ~~unless~~ or if the applicant has been convicted of a violation of any of the provisions of this chapter or chapter 5, title 49, or section 49-1418 or chapter 6, title 48, Idaho Code, or of any federal odometer law or regulation. Should the applicant be a partnership or a corporation, the department may refuse to issue a license to the applicant where it determines that one (1) or more of the partners of a partnership, or one (1) or more of the stockholders or officers of a corporation, was previously the holder of a license which was revoked or suspended, and the license revoked never reissued or the suspended license never reinstated, or that one (1) or more of the partners, stockholders, or officers, though not previously the holder of a license, has violated any of the provisions of this chapter or of an applicable rule or regulation, or of federal motor vehicle safety standards.

(2) For just cause shown, revoke or suspend, on terms, conditions, and for a period of time as the department shall consider fair and just, any license or licenses issued pursuant to the provisions of this chapter. No license shall be revoked or suspended unless it shall be shown that the licensee has violated a provision of this chapter or of an applicable rule or regulation, or of federal motor vehicle safety standards.

(3) On its own motion, upon the sworn complaint of any person, investigate any suspected or alleged violation by a licensee of any of the provisions of this chapter or of an applicable rule or regulation.

(4) Prescribe forms for applications for licenses and qualifications for an applicant for licensure. Every application for a license shall contain, in addition to other information required by the department, the following:

(a) The name and residence address of the applicant and the trade name, if any, under which he intends to conduct his business. If the applicant is a copartnership, the name and residence address of each member, whether a limited or general partner, and the name under which the partnership business is to be conducted. If the applicant is a corporation, the name of the corporation and the name and address of each of its principal officers and directors.

(b) A complete description, including the city with the street number, of the principal place of business and any other and additional places of business operated and maintained by the applicant in conjunction with the principal place of business.

(c) Copies of any letters of franchise for new vehicles that the applicant has been enfranchised to sell or exchange, and the name or names and addresses of the manufacturer or distributor who has enfranchised the applicant.

(d) Names and addresses of the persons who shall act as salesmen under the authority of the license, if issued.

(e) A copy of the certificate of assumed business name, if required, shall be filed with the ~~county recorder in the county where the dealer's principal place of business is located~~ secretary of state.

(f) For a manufacturer's license, the name or names and addresses of each and every distributor, factory branch, and factory representative.

(g) For a salesman's license, certification by the dealer by whom the salesman will be employed, that he has examined the background of the applicant, and to the best of the dealer's knowledge, is qualified to be licensed under the sponsorship of the licensed dealer.

(5) Refuse to issue any license under the provisions of this chapter if, upon investigation, the department finds that any information contained in the application is incomplete, incorrect or fictitious.

(6) Require that a dealer's principal place of business, and other locations operated and maintained by him in conjunction with his principal place of business, have erected or posted signs or devices providing information relating to the dealer's name, location and address of the principal place of business, and the number of the license held by the dealer.

(7) Provide for regular meetings of the dealer advisory board, to be held not less frequently than semiannually. Notices of meetings of the advisory board shall be mailed to all members not less than five (5) days prior to the date on which the meeting is to be held.

(8) Inspect, prior to licensing, the principal place of business and other sites or locations as may be operated and maintained by the applicant.

(9) Seek and consider the advisory board's recommendations and comments regarding proposed rules ~~and regulations~~ promulgated for the administration of the provisions of this chapter.

(10) Require the attendance of not less than one (1) or more than three (3) advisory board members at all hearings held relating to this chapter.

SECTION 21. That Section 49-1607, Idaho Code, be, and the same is hereby amended to read as follows:

49-1607. FEES -- FUNDS -- EXPENSES -- EXPIRATION OF LICENSES. (1) The department shall collect with each application for licensure, the following fees:

(a) Dealer's, wholesale dealer's and vehicle manufacturer's license, initial application, one hundred twenty-five dollars ($125), ten dollars ($10.00) of which shall be deposited in the county current expense fund. Renewal application, one hundred dollars ($100).

(b) Vehicle salesman's license, twenty-five dollars ($25.00), ten dollars ($10.00) of which shall be deposited in the county current expense fund.

(c) Distributor-factory branch-distributor branch license, one hundred dollars ($100).

(d) Representative's license, twenty-five dollars ($25.00).

(e) To reissue a license, salesman and dealer identification cards or other licensing documents at a dealer's request, not resulting from an error by the department, a fee of ten dollars ($10.00) per document.

(f) Supplemental lot license or relocated principal place of business, and temporary supplemental lot, twenty-five dollars ($25.00) for license issued to a single dealer. A fee of fifty dollars ($50.00) for a license issued to a group of dealers for a temporary supplemental lot.

(2) All fees shall be paid over to the state treasurer for credit to the state highway account out of which shall be paid the expenses of the department and the expenses incurred in enforcing the provisions of this chapter.

(3) Dealer licenses, if not suspended or revoked, may be renewed from year to year upon the payment of the fees specified in this section to accompany applications, and renewals shall be made in accordance with the provisions of section 49-1634, Idaho Code.

(a) There shall be twelve (12) licensing periods, starting with January and ending in December. A dealer's license shall be in effect from the month of initial licensing through the last day of the next year's calendar month that precedes the month of the initial licensing. ~~During the first calendar year of the staggered licensing system, a dealership may, for the purpose of establishing a preferred licensing period, choose to renew its license for six (6) to eighteen (18) months at a cost of eight dollars and fifty cents ($8.50) per month.~~

(b) Any renewal license application received or postmarked after thirty (30) days from the end of the previous year's license period shall be processed as an initial application and initial

fees shall be paid.

(4) Salesman licenses, if not suspended or revoked, shall be valid for three (3) years from the date of issue provided that:

(a) Employment remains with the sponsoring dealership; and

(b) The sponsoring dealership has a valid license issued by the department.

Renewals shall be issued in accordance with the provisions of section 49-1635, Idaho Code.

SECTION 22. That Section 49-1611, Idaho Code, be, and the same is hereby amended to read as follows:

49-1611. DISPLAY, FORM AND CUSTODY OF DEALER'S AND SALESMAN'S LICENSE. The department shall prescribe each form of the vehicle dealer's and salesman's license. It shall be the duty of each dealer to display conspicuously his own license in his place of business. The ~~director~~ department shall prepare and deliver a pocket identification card, which shall certify that the person whose name appears on the card is a licensed vehicle dealer or vehicle salesman, as the case may be, and each vehicle dealer's or vehicle salesman's card shall ~~also~~ contain a current photograph of the applicant and the date of expiration of the license. Each and every vehicle dealer and vehicle salesman shall, upon request, display his card.

SECTION 23. That Section 49-1702, Idaho Code, be, and the same is hereby amended to read as follows:

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

To: (Name of registered and legal owner and addresses)

Notice is hereby given, in accordance with the provisions of , Idaho Code, that the undersigned, of [address] has been requested by , of , [address] , [the registered owner, or agent thereof] , to [repair or as the case may be] the following described motor vehicle of which you are designated the registered or legal owner on the title: [specify year, make and model] , [vehicle identification ~~or--engine~~ no.] , [license no.] . If appropriate, add: The repairs requested are as follows: .

The undersigned intends to begin such [repairs or as the case may be] on approximately , 19 .

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

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

Dated , 19 .

(Signature)

Consent

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

Dated , 19 .

(Signature of registered or legal owner)

SECTION 24. That Section 49-1705, Idaho Code, be, and the same is hereby amended to read as follows:

49-1705. SALE TO SATISFY LIENS. (1) When a possessory ~~lien-holder~~ lienholder is not paid the amount of the lien due, within ten (10) days after the same becomes due, the ~~lien-holder~~ lienholder may proceed to conduct a sale as provided by this section to satisfy the lien and costs of sale, if an authorization to conduct a lien sale has been issued by the department, or a judgment has been entered in favor of the ~~lien-holder~~ lienholder on the claim which gives rise to the lien, or the registered and legal owners of the vehicle have signed, after the lien has arisen, a release of any interest in the vehicle.

(2) A possessory ~~lien-holder~~ lienholder may apply to the department for the issuance of an authorization to conduct a lien sale. The application shall include all of the following information:

(a) A description of the vehicle, including make, vehicle identification number, and license number~~;--In-the-case--of--motorcycles, the-engine-number-shall-also-be-included~~;

(b) The names and addresses of the registered and legal owners of the vehicle, if ascertainable from registration certificates within the vehicle, and the names and addresses of other persons whom the ~~lien-holder~~ lienholder knows or reasonably should know to claim an interest in the vehicle;

(c) A statement of the amount of the lien and the facts concerning the claim which give rise to the lien; and

(d) A statement that the ~~lien-holder~~ lienholder has no information or belief that there is a valid defense to the claim which gives rise to the lien.

(3) Upon receipt of an application, the department shall send a copy of the application to the registered and legal owners at their addresses of record with the department and to any other interested persons listed in the application. The department shall also send a notice which shall include the following information:

(a) That an application has been made with the department for the issuance of an authorization to conduct a lien sale;

(b) That the person has a legal right to a hearing in court;

(c) That if a hearing in court is desired, an enclosed declaration of opposition must be signed and returned;

(d) That if the declaration is signed and returned, the possessory ~~lien--holder~~ lienholder will be allowed to sell the vehicle only if he obtains a judgment in court or obtains a release from the registered and legal owners;

(e) That the department will issue the authorization to conduct a lien sale unless the person signs and returns the declaration of opposition within ten (10) days after the date the notice was

mailed; and

(f) That the person may be liable for costs if the ~~lien-holder~~ lienholder brings an action and if a judgment is entered in favor of the ~~lien-holder~~ lienholder.

(4) If the department receives a timely mailed declaration of opposition, it shall notify the possessory ~~lien-holder~~ lienholder that he may not conduct a lien sale unless:

(a) A judgment has been entered in his favor on the claim which gives rise to the lien; or

(b) The registered and legal owners of the vehicle have signed a release of any interest in the vehicle.

(5) An applicant shall include with his application for lien sale a fee of ten dollars ($10.00) which shall be deposited in the abandoned vehicle trust account. The fee shall be recoverable as a cost by the ~~lien-holder~~ lienholder.

SECTION 25. That Section 49-1707, Idaho Code, be, and the same is hereby amended to read as follows:

49-1707. NOTICE OF SALE. Prior to any sale the possessory ~~lien holder~~ lienholder shall give at least ten (10) days' notice of the sale by advertising in one (1) issue of a newspaper of general circulation in the county in which the vehicle is located. Prior to the sale of any vehicle to satisfy a lien, twenty (20) days' notice by certified mail shall be given to the legal owner and to the registered owner of the vehicle, if registered in this state, as the same appear in the registration certificate, and to the department. All notices specify the make, the vehicle identification number, and license number, and the date, time, and place of the sale. ~~In-the-case-of--motorcycles,-the-engine-number-shall-be-included.~~

SECTION 26. That Section 49-1803, Idaho Code, be, and the same is hereby amended to read as follows:

49-1803. REMOVAL OF STOLEN VEHICLES OR VEHICLES FOUND UNDER EMERGENCY CIRCUMSTANCES. (1) Any authorized officer, upon discovery of a vehicle reported as stolen and not recovered, or any vehicle involved in any extraordinary circumstances, may take the vehicle into custody and cause it to be taken to and stored in a suitable place, or may cause the vehicle to be placed in the custody of a tow truck operator, all expenses of towing and storage to be those of the vehicle owner unless otherwise determined according to the provisions of section 49-1805(5), Idaho Code.

(2) Within forty-eight (48) hours of the time that the vehicle is taken into custody and is stored pursuant to this chapter, the agency of which the officer is an agent shall give written notice by certified mail to the registered and legal owners of the vehicle, if known. The notice shall state:

(a) That the vehicle has been taken into custody and stored; and

(b) The location of storage of the vehicle.

(3) The public agency by which the officer is employed shall appraise the vehicle and shall include in the notice, identification of the officer; location of the vehicle; a description of the vehicle

including make, year model, identification number, license number, state of registration and~~;-if-a-motorcycle,-an-engine-number;-and~~ the statutory authority for storage.

SECTION 27. That Section 49-1814, Idaho Code, be, and the same is hereby amended to read as follows:

49-1814. DISPOSITION OF LOW-VALUED VEHICLES. (1) If the vehicle is appraised at a value not exceeding two hundred dollars ($200), the provisions of sections 49-1809 through 49-1811, Idaho Code, shall not apply, and the person or public agency which removed the vehicle shall:

(a) ~~Within-forty-eight-(48)-hours-after-the-appraisal,-notify-the department-of-the-removal-of-the-vehicle;~~

~~(b)~~ Prepare a certificate containing a description of the vehicle stating the appraised value of the vehicle and indicating one of the following:

1. The agency which requested the tow has submitted a certified statement that a declaration of opposition has not been received.

2. The registered and legal owners have signed a certified release disclaiming any interest, which release shall be included with the certificate.

3. The vehicle is in a condition that vehicle identification numbers are not available to determine owners of record.

(~~c~~b) Upon completion of the certificate, execute and deliver a bill of sale, together with a copy of the certificate, either to the possessory ~~lien-holder~~ lienholder, who shall endorse the bill of sale to an automobile parts dealer or to a scrap processor for disposal.

(2) Automobile parts dealers acquiring vehicles which are the subject of certificates prepared and forwarded pursuant to this section shall be excused from any fees which would otherwise be due to the department.

(3) A public agency may authorize, by contract, the removal or disposal of low-valued vehicles. The contract shall be issued to the lowest responsible bidder. Bills of sale shall then be executed and delivered, pursuant to subsection (1)(~~c~~b) of this section, to the contractor.

(4) The following persons shall have the authority to make appraisals for purposes of this chapter:

(a) Any member of the Idaho state police division of the department of law enforcement;

(b) Any regularly employed and salaried deputy sheriff or other employee designated by the sheriff of any county;

(c) Any regularly employed and salaried peace officer or other employee designated by the chief of police of any city;

(d) Any officer or employee of the division of motor vehicles ~~bureau-of-the-department~~ designated by the director;

(e) Any regularly salaried employee of a city, county, or city and county designated by a board of county commissioners or by a city council; or

(f) Any regularly employed and salaried peace officer or other

employee of the department of parks and recreation designated by the director of that department.

(5) An appraiser, upon completion of an appraisal within the meaning of this chapter, shall notify the department of the appraisal and of the facts upon which the appraisal was based.

SECTION 28. That Section 49-1815, Idaho Code, be, and the same is hereby amended to read as follows:

49-1815. DISPOSITION OF LOW-VALUED VEHICLES -- PROCEDURE. The procedure for the disposition of low-valued vehicles is as follows:

(1) The person or agency which removes the vehicle shall, within fifteen (15) working days following the date of possession of the vehicle, make a request to the department for the names and addresses of all persons having an interest in the vehicle. No storage charge shall accrue beyond the fifteen (15) day period unless the ~~lien-holder~~ lienholder has made a request to the department as provided in this section.

(2) The person or agency which removes the vehicle shall immediately upon receipt of this information send, by certified mail with return receipt requested, the following prescribed forms and enclosures to the registered owner and legal owner at their addresses of record with the department, and to any other person known to have an interest in the vehicle:

(a) A completed form entitled "Notice of Intent to Dispose of a Vehicle Valued at $200 or Less";

(b) A blank form entitled "Declaration of Opposition".

(3) All notices to persons having an interest in the vehicle shall be signed under penalty of perjury and shall include all of the following:

(a) A description of the vehicle, including make, year model, identification number, license number, and state of registration~~. For motorcycles, the engine number shall also be included~~;

(b) The names and addresses of the registered and legal owners of the vehicle and any other person known to have an interest in the vehicle;

(c) The following statements and information:

1. The amount of the lien;

2. The facts concerning the claim which gives rise to the lien;

3. The person has a right to a hearing in court;

4. If a hearing in court is desired, a declaration of opposition form shall be signed under penalty of perjury and returned to the agency which requested the tow within ten (10) days of the date the notice of intent to dispose of a vehicle valued at $200 or less form was mailed; and

5. The declarant may be liable for court costs if a judgment is entered in favor of the possessory ~~lien-holder~~ lienholder.

(d) A statement that the possessory ~~lien-holder~~ lienholder may dispose of the vehicle to a certified automobile parts dealer if it is not redeemed or if a declaration of opposition form is not signed and mailed to the agency which requested the tow within ten (10) days of the date the notice of intent to dispose of a vehicle

valued at $200 or less form was mailed.

(4) If the agency which requested the tow receives a completed declaration of opposition ~~from~~ form within the time prescribed, the vehicle shall not be disposed of for an additional fifteen (15) day period during which time the individual filing the declaration of opposition must file an action with the appropriate court and cause the possessory ~~lien--holder~~ lienholder to be served with the summons and complaint. The filing and service of the action will stay disposal of the vehicle pending decision by the court unless the declarant subsequently releases his interest in the vehicle.

SECTION 29. That Section 49-1817, Idaho Code, be, and the same is hereby amended to read as follows:

49-1817. FEE TO ACCOMPANY INFORMATION REQUEST. Upon the filing of a request for title and registration information on an abandoned vehicle, the department shall receive a fee ~~of--two--dollars--($2.00)~~ in accordance with section 49-202(2)(f), Idaho Code.

Approved March 25, 1998.

CHAPTER 393
(H.B. No. 565, As Amended)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-802, IDAHO CODE, TO PROVIDE A CODE REFERENCE, TO PROVIDE THAT A DRIVER FACING A STEADY RED LIGHT SHALL REMAIN STOPPED BEHIND THE MARKED LIMIT LINE OR IF THERE IS NO MARKED LIMIT LINE SHALL NOT BLOCK THE CROSSWALK AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 49-113, IDAHO CODE, TO ADD A DEFINITION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 49-802, Idaho Code, be, and the same is hereby amended to read as follows:

49-802. TRAFFIC-CONTROL SIGNAL LEGEND. Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one (1) at a time or in combination, only the colors green, red and yellow shall be used, except for pedestrian-control signals and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication:

(a) A driver facing a circular green signal shall proceed straight through or turn right or left unless a sign prohibits a right or left turn. Any driver, including one turning, shall yield the right-of-way to other traffic and to pedestrians lawfully within the intersection, as defined in section 49-110, Idaho Code, or an adjacent crosswalk.

(b) A driver facing a green arrow signal, shown alone or in com-

bination with another indication, shall enter the intersection only to make the movement indicated by the green arrow, or other movement that is permitted by other indications shown at the same time. A driver facing a left turn green arrow shall yield the right-of-way to other traffic and to pedestrians lawfully within the intersection or an adjacent crosswalk.

(c) A pedestrian facing a circular green signal, unless prohibited by a sign or otherwise direction by a pedestrian-control signal, as provided in section 49-803, Idaho Code, may proceed across the highway within any marked or unmarked crosswalk, but shall yield the right-of-way to vehicles lawfully within the intersection at the time that signal is first shown.

(d) A pedestrian facing a green arrow turn signal unless otherwise directed by a pedestrian-control signal as provided in section 49-803, Idaho Code, shall not enter the highway.

(2) Steady yellow indication:

(a) A driver facing a steady circular yellow or yellow arrow signal is being warned that the related green movement is ending, or that a red indication will be shown immediately after it.

(b) A pedestrian facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal as provided in section 49-803, Idaho Code, is being warned that there is insufficient time to cross the highway.

(3) Steady red indication:

(a) A driver facing a steady circular red signal alone shall stop ~~at--a--marked-limit-line-or-crosswalk,-or-if-none,~~ before entering the intersection, as defined in section 49-110, Idaho Code, and shall remain stopped until an indication to proceed is shown except as provided in paragraph (b) of this subsection. While stopped at the intersection the driver shall remain stopped behind the marked limit line, as defined in section 49-113, Idaho Code, or if there is no marked limit line, shall not block the crosswalk.

(b) Except when a sign is in place prohibiting a turn, a driver after stopping, facing a steady circular red signal, may turn right, or turn left from a highway onto a one-way highway after stopping. Vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) A driver facing a steady red arrow indication shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make a movement permitted by another signal shall stop at a clearly marked limit line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain stopped until an indication permitting movement is shown.

(d) Unless otherwise directed by a pedestrian-control signal, a pedestrian facing a steady circular red or red arrow signal shall not enter the traffic lanes of a highway.

(4) When an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by

their nature can have no application. Any stop required shall be made at a sign or crosswalk or limit line indicating where the stop shall be made, but in the absence of a sign or marking the stop shall be made at the signal.

SECTION 2. That Section 49-113, Idaho Code, be, and the same is hereby amended to read as follows:

49-113. DEFINITIONS -- L.

(1) "Laned highway" means a highway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

(2) "Lane of travel." (See "Traffic lane", section 49-121, Idaho Code)

(3) "Legal owner" means any person notated as "lienholder" of a vehicle, the notation appearing on the title records of the department and on the respective certificate of title.

(4) "License" or "license to operate a motor vehicle" means any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

(a) Any temporary license or instruction permit;

(b) Any nonresident's operating privilege;

(c) Any special permit issued by the department.

(5) "Licensing authority" as used in chapter 20 of this title with reference to Idaho, means the department.

(6) "Lien" or "encumbrance" means every security interest in any vehicle other than security interests in vehicles held in inventory for sale.

(7) "Lienholder" means a person holding a security interest in a vehicle.

(8) "Light weight" or "unladen weight" means the scale weight of a vehicle equipped for operation, but without any cargo on it.

(9) "Limit line" or "stop line" means a solid white line extending across a highway indicating the point behind which vehicles are required to stop, which must conform to the manual and specifications adopted by the board pursuant to section 49-201, Idaho Code.

(10) "Local authorities" means every county, highway district, municipal and other local board or body having authority to enact regulations, resolution and/or ordinances relating to traffic on the highways, public rights-of-way and streets under their jurisdiction under the constitution and laws of this state.

Approved March 25, 1998.

CHAPTER 394
(H.B. No. 583)

AN ACT

RELATING TO DRIVER'S LICENSE; AMENDING SECTION 49-306, IDAHO CODE, TO INCREASE THE MAXIMUM ALLOWABLE CHARGE FOR A COMMERCIAL DRIVER'S SKILLS TEST AND THE MAXIMUM ALLOWABLE CHARGE FOR A CONTRACTOR

ADMINISTERING THE TEST.

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

SECTION 1. That Section 49-306, Idaho Code, be, and the same is hereby amended to read as follows:

49-306. APPLICATION FOR DRIVER'S LICENSE OR INSTRUCTION PERMIT. (1) Every application for 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 ..... not more than $35.00
(j) Class D skills test $15.00
(k) Motorcycle endorsement skills test .....$ 5.00
(l) Knowledge test ..... $ 3.00
(m) Seasonal driver's license..... $23.50
(n) One time motorcycle "M" endorsement $11.50
(o) Motorcycle endorsement instruction permit $11.50

(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 as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code. Every application shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, cancelled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature. The applicant may be required to submit proof of identity and date 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 in the current expense fund; and

(d) Deposit an amount equal to five dollars ($5.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the five dollar ($5.00) fee;

(e) Remit the remainder to the state treasurer; and

(f) Deposit eleven dollars and fifty cents ($11.50) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to eleven dollars and fifty cents ($11.50) of each fee.

(7) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars ($2.00) of each fee for a driver's license or seasonal driver's license shall be deposited in the emergency medical services account II created in section 39-146A, Idaho Code; and

(b) Sixteen dollars and fifty cents ($16.50) of each fee for a seasonal or class A, B, or C driver's license shall be deposited

in the state highway account; and

(c) Ten dollars and fifty cents ($10.50) of each fee for a class A, B, or C instruction permit or driver's license classification change shall be deposited in the state highway account; and

(d) Six dollars and fifty cents ($6.50) of each fee for a duplicate seasonal or class A, B, or C driver's license, class A, B, or C driver's license extension, or additional endorsement shall be deposited in the state highway account; and

(e) Four dollars ($4.00) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account; and

(f) Five dollars and thirty cents ($5.30) of each fee for a class D driver's license shall be deposited in the driver training account; and

(g) Seven dollars and twenty cents ($7.20) of each fee for a class D driver's license shall be deposited in the highway distribution account; and

(h) Two dollars and sixty cents ($2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training account; and

(i) Three dollars and ninety cents ($3.90) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution account; and

(j) Five dollars ($5.00) of each fee for a class A, B, or C skills test shall be deposited in the state highway account; and

(k) One dollar ($1.00) of each fee for a class A, B, C or D driver's license shall be deposited in the motorcycle safety program fund established in section 33-4804, Idaho Code.

(l) Three dollars and fifty cents ($3.50) of each fee for a class D skills test shall be deposited into the state highway account.

(9) The contractor administering a class A, B, or C skills test shall be entitled to ~~thirty~~ not more than fifty dollars ($~~3~~50.00) of the skills test fee. A contractor administering a class A, B, or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) 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.

Approved March 25, 1998.

CHAPTER 395
(H.B. No. 631)

AN ACT

RELATING TO LAW ENFORCEMENT OFFICERS; AMENDING CHAPTER 9, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-915A, IDAHO CODE, TO PROVIDE THAT A PERSON MAY NOT REMOVE OR ATTEMPT TO REMOVE A FIREARM FROM A LAW ENFORCEMENT OFFICER AND CERTAIN OTHER PERSONS, TO PROVIDE THAT A VIOLATION IS A FELONY AND TO PROVIDE FOR SENTENCING.

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 18-915A, Idaho Code, and to read as follows:

18-915A. REMOVING A FIREARM FROM A LAW ENFORCEMENT OFFICER. (1) A person may not knowingly remove or attempt to remove a firearm from the possession of another person if:
(a) The other person is lawfully acting within the course and scope of employment; and
(b) The person knows or has reason to know that the other person is employed as any of the following:
(i) A law enforcement officer who, in an official capacity, is authorized to make arrests; or
(ii) An employee of the Idaho board of corrections, of the Idaho department of juvenile corrections, of any prison, jail, detention or booking facility within the state, or of the commission of pardons and parole.
(2) A person who violates this section is guilty of a felony.
(3) A sentence imposed for a violation of this section may be imposed separate from and consecutive to or concurrent with a sentence for any offense based on the act or acts establishing the offense under this section.

Approved March 25, 1998.

CHAPTER 396
(H.B. No. 721, As Amended in the Senate)

AN ACT
RELATING TO ADULT PROTECTION SERVICES IN IDAHO; AMENDING SECTION 39-5303, IDAHO CODE, TO REQUIRE REPORTS OF SUSPECTED ABUSE TO LAW ENFORCEMENT AGENCIES AND TO PROVIDE ADDITIONAL PENALTIES.

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

SECTION 1. That Section 39-5303, Idaho Code, be, and the same is hereby amended to read as follows:

39-5303. DUTY TO REPORT CASES OF ABUSE, NEGLECT OR EXPLOITATION OF VULNERABLE ADULTS. (1) Any physician, nurse, employee of a public or private health facility, or a state licensed or certified residential facility serving vulnerable adults, medical examiner, dentist, ombudsman for the elderly, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected or exploited shall immediately report such information to the commission. Provided however, that skilled nursing facilities defined in section 39-1301(b), Idaho Code, and employees of such facilities shall make reports required under this chapter to the department of health and welfare. When there is reasonable cause to believe that abuse or sexual assault has resulted in death or serious physical injury jeopardizing the life, health or safety of a vulnerable adult, any person required to report under this section shall also report such information within four (4) hours to the appropriate law enforcement agency.

(2) Failure to report as provided under this section is a misdemeanor subject to punishment as provided in section 18-113, Idaho Code. If an employee at a state licensed or certified residential facility fails to report abuse or sexual assault that has resulted in death or serious physical injury jeopardizing the life, health or safety of a vulnerable adult as provided under this section, the department shall also have the authority to:

(a) Revoke the facility's license and/or contract with the state to provide services;
(b) Deny payment;
(c) Assess and collect a civil monetary penalty with interest from the facility owner and/or facility administrator;
(d) Appoint temporary management;
(e) Close the facility and/or transfer residents to another certified facility;
(f) Direct a plan of correction;
(g) Ban admission of persons with certain diagnoses or requiring specialized care;
(h) Ban all admissions to the facility;
(i) Assign monitors to the facility; or
(j) Reduce the licensed bed capacity.

Any action taken by the department pursuant to this subsection shall

be appealable as provided in chapter 52, title 67, Idaho Code.

(~~2~~3) Any person who makes any report pursuant to this chapter, or who testifies in any administrative or judicial proceeding arising from such report, or who is authorized to provide supportive or emergency services pursuant to the provisions of this chapter, shall be immune from any civil or criminal liability on account of such report, testimony or provision of services, except that such immunity shall not extend to perjury, reports made in bad faith or with malicious purpose nor, in the case of provision of services, in the presence of gross negligence under the existing circumstances.

Approved March 25, 1998.

CHAPTER 397
(H.B. No. 743, As Amended)

AN ACT

RELATING TO CITY AND COUNTY PURCHASING PROCEDURES; AMENDING SECTION 31-4003, IDAHO CODE, TO AUTHORIZE COUNTY COMMISSIONERS TO PROCURE PROPERTY THROUGH A STREAMLINED PROCEDURE WHEN THERE IS ONLY ONE SOURCE FOR PROCUREMENT OF SUCH PROPERTY; AND AMENDING SECTION 50-341, IDAHO CODE, TO AUTHORIZE CITIES TO PROCURE PROPERTY THROUGH A STREAMLINED PROCEDURE WHEN THERE IS ONLY ONE SOURCE FOR THE PURCHASE OF SUCH PROPERTY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 31-4003, Idaho Code, be, and the same is hereby amended to read as follows:

31-4003. EXPENDITURES FOR WHICH BIDS REQUIRED. (1) Unless otherwise provided in this chapter, when the expenditure contemplated exceeds five thousand dollars ($5,000), but not twenty-five thousand dollars ($25,000), the county shall obtain price or cost quotations from at least three (3) responsible vendors in the business of supplying such goods or services. To enhance small business bidding opportunities, the county shall seek a minimum of three (3) price quotations from registered vendors having a significant Idaho economic presence as defined in section 67-2349, Idaho Code. If the county finds that it is impractical or impossible to obtain three (3) quotations for the proposed transaction, the county may acquire the property in any manner the county deems best. The county shall then procure the goods or services from the responsible vendor quoting the lowest price. When the expenditure contemplated exceeds twenty-five thousand dollars ($25,000), it shall be contracted for and let to the lowest responsible bidder. Where both the bids and quality of property offered are the same, preference shall be given to the property of local and domestic production and manufacture or from bidders having a significant Idaho economic presence as defined in section 67-2349, Idaho Code.

(2) Upon resolution by the board of county commissioners that

there is only one (1) vendor as a source of procurement and the procurement involves a contract which does not exceed one (1) year, then notice of a sole source procurement shall be published in a newspaper of general circulation printed or published in the county or having general circulation in the county, at least ten (10) working days prior to the award of the contract. For purposes of this section, only one (1) vendor shall refer to situations where there is only one (1) source reasonably available, and shall include, but is not limited to:

(a) Where the compatibility of equipment, components, accessories, computer software, replacement parts or service is the paramount consideration;

(b) Where a sole supplier's item is needed for trial use or testing;

(c) Purchase of mass-produced movies, videos, books or other copyrighted materials;

(d) Purchase of property for which it is determined there is no functional equivalent;

(e) Purchase of public utility services;

(f) Purchase of products, merchandise or trademarked goods for resale at a county facility; or

(g) Where competitive solicitation is impractical, disadvantageous or unreasonable under the circumstances.

SECTION 2. That Section 50-341, Idaho Code, be, and the same is hereby amended to read as follows:

50-341. COMPETITIVE BIDDING -- APPLICATION OF LAW. A. The following provisions relative to competitive bidding apply to all cities of the state of Idaho, but shall be subject to the provisions of any specific statute pertaining to the letting of any contract, purchase or acquisition of any commodity or thing by soliciting and receiving competitive bids therefor, and shall not be construed as modifying or amending the provisions of any statute, nor preventing the city from doing any work by its own employees.

B. The word "expenditure" shall mean the granting of a contract, exclusive franchise or authority to another by the city, and every manner and means whereby the city disburses funds or obligates itself to disburse funds; provided, however, that "expenditure" does not include disbursement of funds to any city employee, official, agent, or for the performance of personal services to the city, or for the acquisition of personal property through a contract that has been competitively bid by the state of Idaho, one of its subdivisions or an agency of the federal government.

C. When the expenditure contemplated exceeds five thousand dollars ($5,000) but not twenty-five thousand dollars ($25,000), the city shall obtain price or cost quotations from at least three (3) responsible vendors in the business of supplying such goods or services. To enhance small business bidding opportunities, the city shall seek a minimum of three (3) price quotations from registered vendors having a significant Idaho economic presence as defined in section 67-2349, Idaho Code. If the city finds that it is impractical or impossible to obtain three (3) quotations for the proposed transaction, the city may acquire the property in any manner the city deems best. The city shall

then procure the goods or services from the responsible vendor quoting the lowest price. When the expenditure contemplated exceeds twenty-five thousand dollars ($25,000) the expenditure shall be contracted for and let to the lowest responsible bidder. Where both the bids and quality of property offered are the same, preference shall be given to property of local and domestic production and manufacture or from bidders having a significant Idaho economic presence as defined in section 67-2349, Idaho Code.

D. The notice inviting bids shall set a date and place for the opening of bids. The first publication of the notice shall be at least two (2) weeks before the date of opening the bids. Notice shall be published at least twice, not less than one (1) week apart, in the official newspaper of the city. The notice shall succinctly set forth the project to be done. Any of the following documents shall be made available, upon reasonable deposit, to any interested bidder: bid form, bidder's instructions, contract documents, general and special instructions, drawings and specifications.

E. All bids shall be presented or otherwise delivered under sealed cover to the city clerk, or other bonded agent of the city designated by the city council to receive specific bids, with a concise statement marked on the outside generally identifying the expenditure to which the bid pertains. If the city deems it is in the city's best interest it may require the vendor to provide bid security in one (1) of the following forms:

a. Cash;

b. Cashier's check made payable to the city;

c. A certified check made payable to the city;

d. A bidder's bond executed by a qualified surety company, made payable to the city.

F. The security, if required by the city, shall be an amount equal to at least five ~~per-cent~~ percent (5%) of the amount bid. If required, a bid shall not be considered unless one (1) of the forms of bidder's security is inclosed with it, and unless the bid is submitted in a form which substantially complies with the form provided by the city.

G. Any bid received by the city may not be withdrawn after the time set in the notice for opening of bids. All bids received must be opened at the time and place set in the notice inviting bids, and no person shall be denied the right to be present at the opening of bids.

H. If the successful bidder fails to execute the contract, the amount of his bidder's security shall be forfeited to the city and the proceeds shall be deposited in the fund out of which the expenses of preparation and printing of the plans and specifications, estimates of costs and publication of notice are paid.

I. The city may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the city council awards the contract to the next lowest responsible bidder, the amount of the lowest responsible bidder's security shall be applied by the city to the difference between the lowest responsible bid and the next lowest responsible bid, and the surplus, if any, shall be returned to the lowest bidder if cash or check is used, or to the surety on the bidder's bond if a bond is used.

J. In its discretion, the city council may reject any bids presented and readvertise. If two (2) or more bids are the same and the lowest responsible bids, the city council may accept the one it chooses. If no bids are received, the council may make the expenditure without further compliance with this section.

K. After rejecting bids, the city council may, after finding it to be a fact, pass a resolution declaring that the thing sought to be accomplished by the expenditure can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market. Upon adoption of the resolution, it may have the thing sought to be accomplished done in the manner stated without further compliance with this section.

L. If there is a great public calamity, as an extraordinary fire, flood, storm, epidemic or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, or if it is necessary to do emergency work to safeguard life, health or property, or for contracts which do not exceed one (1) year if there is only one (1) vendor for the property to be acquired, the mayor or city manager may declare that an emergency exists and that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property, or declare that there is only one (1) vendor for the property. Upon making the declaration of emergency, any sum required in the emergency may be expended without compliance with this section. Upon declaration of only one (1) vendor, unless the property is required for a life-threatening situation or a situation that is immediately detrimental to the public welfare or property, notice of a sole source procurement shall be published in the official newspaper of the city at least ten (10) working days prior to the award of the contract. For purposes of this section, only one (1) vendor shall refer to situations where there is only one (1) source reasonably available, and shall include, but is not limited to:

a. Property required to respond to a life-threatening situation or a situation which is immediately detrimental to the public welfare or property;

b. Where the compatibility of equipment, components, accessories, computer software, replacement parts or service is the paramount consideration;

c. Where a sole supplier's item is needed for trial use or testing;

d. Purchase of mass-produced movies, videos, books or other copyrighted materials;

e. Purchase of property for which it is determined there is no functional equivalent;

f. Purchase of public utility services;

g. Purchase of products, merchandise or trademarked goods for resale at a city facility; or

h. Where competitive solicitation is impractical, disadvantageous or unreasonable under the circumstances.

M. In its discretion, the city council may purchase equipment at a public auction, if the council has made a finding that such equipment may be purchased at a lower price.

Approved March 25, 1998.

CHAPTER 398
(H.B. No. 787)

AN ACT

RELATING TO MEDICAL SAVINGS ACCOUNTS; AMENDING SECTION 63-3022K, IDAHO CODE, TO LIMIT THE AMOUNT OF CONTRIBUTIONS TO THE ACCOUNT AND TO ALLOW ADJUSTMENTS FOR ERRONEOUS WITHDRAWALS; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

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

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

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

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

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

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

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

(ii) Legally entitled to the provision of proper or necessary subsistence, education, medical care or other care necessary for his or her health, guidance or well-being and not otherwise emancipated, self-supporting, married or a member of the armed forces of the United States.

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

(d) "Depository" means a state or national bank, savings and loan association, credit union or trust company authorized to act as a fiduciary or an insurance administrator or insurance company authorized to do business in this state, a broker or investment advisor regulated by the department of finance, a broker or insurance agent regulated by the department of insurance or a health maintenance organization, fraternal benefit society, hospital and

professional service corporation as defined in section 41-3403, Idaho Code, or nonprofit mutual insurer regulated under title 41, Idaho Code.

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

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

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

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

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

(a) There shall be a distribution penalty for withdrawal of funds by the account holder for purposes other than the payment of eligible medical expenses. The penalty shall be ten percent (10%) of the amount of withdrawal from the account and, in addition, the amount withdrawn shall be subject to the tax imposed in this chapter. The direct transfer of funds from a medical savings account to a medical savings account at a different depository shall not be considered a withdrawal for purposes of this section. Charges relating to the administration and maintenance of the account by the depository are not withdrawals for purposes of this section.

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

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

(d) Funds withdrawn which are later reimbursed shall be taxable

(2) Such compensation shall be paid on regular pay periods as due out of the state treasury, and shall be in full for all services by said officers respectively rendered in any official capacity or employment whatever during their respective terms of office; but no increase in the rate of compensation shall ~~affect the salaries of such officers~~ be made during ~~their present~~ the terms of such officers; provided, however, that the actual and necessary expenses of the governor, lieutenant governor, secretary of state, attorney general, state controller, state treasurer, and superintendent of public instruction while traveling within the state, or between points within the state, in the performance of official duties, shall be allowed and paid by the state; not however, exceeding such sum as shall be appropriated for such purpose.

(3) Actual and necessary subsistence expenses of the governor while traveling in connection with the performance of official duties are hereby expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code. (Standard Travel Pay and Allowance Act of 1949).

(4) No officer named in this section shall receive, for the performance of any official duty any fee for his own use, but all fees fixed by law for the performance by either of them, of any official duty, shall be collected in advance and deposited with the state treasurer to the credit of the state.

Approved March 25, 1998.

CHAPTER 400
(H.B. No. 752, As Amended)

AN ACT

RELATING TO VALUATION AND ASSESSMENT OF PUBLIC UTILITY PROPERTY FOR TAX PURPOSES; AMENDING SECTION 63-201, IDAHO CODE, TO REVISE THE DEFINITION OF "OPERATING PROPERTY", TO REVISE THE DEFINITION OF "PUBLIC UTILITY" AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-401, IDAHO CODE, TO CLARIFY THAT OPERATING PROPERTY SHALL BE ASSESSED BY THE STATE TAX COMMISSION AND DOES NOT INCLUDE CERTAIN FRANCHISES; AMENDING SECTION 63-405, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY; AMENDING SECTION 63-602L, IDAHO CODE, TO SPECIFY WHICH INTANGIBLE PERSONAL PROPERTIES ARE EXEMPT FROM TAXATION AND TO AUTHORIZE THE STATE TAX COMMISSION TO PROMULGATE RULES TO EXCLUDE INTANGIBLE PERSONAL PROPERTY FROM THE TAXABLE VALUE OF OPERATING PROPERTY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-201, Idaho Code, be, and the same is hereby amended to read as follows:

63-201. DEFINITIONS. As used for property tax purposes in title 63, chapters 1 through 23, Idaho Code, the terms defined in this section shall have the following meanings, unless the context clearly

indicates another meaning:

(1) "Appraisal" means an estimate of property value for property tax purposes.

(a) For the purpose of estimated property value to place the value on any assessment roll, the value estimation must be made by the assessor or a certified property tax appraiser.

(b) For the purpose of estimating property value to present for an appeal filed pursuant to sections 63-501A, 63-407 and 63-409, Idaho Code, the value estimation may be made by the assessor, a certified property tax appraiser, a licensed appraiser, or a certified appraiser or any party as specified by law.

(2) "Bargeline" means those water transportation tugs, boats, barges, lighters and other equipment and property used in conjunction with waterways for bulk transportation of freight or ship assist.

(3) "Cogenerators" means facilities which produce electric energy, and steam or forms of useful energy which are used for industrial, commercial, heating or cooling purposes.

(4) "Collection costs" are amounts authorized by law to be added after the date of delinquency and collected in the same manner as property tax.

(5) "Delinquency" means any property tax, special assessment, fee, collection cost, or charge collected in the same manner as property tax, that has not been paid in the manner and within the time limits provided by law.

(6) "Improvements" means all buildings, structures, fixtures and fences erected upon or affixed to the land, and all fruit, nut-bearing and ornamental trees or vines not of natural growth, growing upon the land, except nursery stock.

(7) "Late charge" means a charge of two percent (2%) of the delinquency.

(8) "Lawful money of the United States" means currency and coin of the United States at par value and checks and drafts which are payable in dollars of the United States at par value, payable upon demand or presentment.

(9) "Manufactured home" means a structure defined as a manufactured home in section 39-4105, Idaho Code.

(10) "Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

(11) "Operating property" means all ~~franchises;~~ rights-of-way accompanied by title; roadbeds; tracks; pipelines; bargelines; equipment and docks; terminals; rolling stock; equipment; power stations; power sites; lands; reservoirs, generating plants, transmission lines, distribution lines and substations; and all immovable or movable property operated in connection with any public utility, railroad or private railcar fleet, wholly or partly within this state, and necessary to the maintenance and operation of such road or line, or in conducting its business, and shall include all title and interest in such property, as owner, lessee or otherwise. The term does not include personal property exempt from taxation pursuant to section 63-602L, Idaho Code.

(12) "Party in interest" means a person who holds a properly recorded mortgage, deed of trust or security interest.

(13) "Person" means any entity, individual, corporation, partnership, firm, association, limited liability company, limited liability partnership or other such entities as recognized by the state of Idaho.

(14) "Personal property" includes all goods, chattels, stocks and bonds, equities in state lands, easements, reservations, leasehold real properties and all other property which the law defines, or the courts may interpret, declare and hold to be personal property under the letter, spirit, intent and meaning of the law, for the purposes of property taxation. For the purposes of payment and collection of property taxes pursuant to chapter 9, title 63, Idaho Code, collection of delinquency pursuant to chapter 10, title 63, Idaho Code, and seizure and sale of personal property for taxes pursuant to chapter 11, title 63, Idaho Code, personal property includes manufactured homes not declared as real property pursuant to section 63-304, Idaho Code.

(15) "Private railcar fleet" means railroad cars or locomotives owned by, leased to, occupied by or franchised to any person other than a railroad company operating a line of railroad in Idaho or any company classified as a railroad by the interstate commerce commission and entitled to possess such railroad cars and locomotives except those possessed solely for the purpose of repair, rehabilitation or remanufacturing of such locomotives or railroad cars.

(16) "Public utility" means electrical companies, ~~telephone companies,~~ pipeline companies, natural gas distribution companies, or power producers included within federal law, ~~telecommunications--companies providing--intercounty-or-interstate-service-or-charging-their-users-a separately-stated-fee-for-the-use-of--its--services,~~ bargelines, and water companies which are under the jurisdiction of the Idaho public utilities commission. The term also includes telephone corporations, as that term is defined in section 62-603, Idaho Code, except as hereinafter provided, whether or not such telephone corporation has been issued a certificate of convenience and necessity by the Idaho public utilities commission.

This term does not include cogenerators, mobile telephone service or companies, nor does it include pager service or companies, except when such services are an integral part of services provided by a certificated utility company nor does the term "public utility" include companies or persons engaged in the business of providing solely on a resale basis, any telephone or telecommunication service which is purchased from a telephone corporation or company.

(17) "Railroad" means every kind of railway, whether its line of rails or tracks be at, above or below the surface of the earth, and without regard to the kind of power used in moving its rolling stock, and shall be considered to include every kind of street railway, suburban railway or interurban railway excepting facilities established solely for maintenance and rebuilding of railroad cars or locomotives.

(18) "Real property" means land, and all standing timber thereon, including standing timber owned separately from the ownership of the land upon which the same may stand, except as modified in chapter 17, title 63, Idaho Code, and all buildings, structures and improvements, or other fixtures of whatsoever kind on land, including water ditches

constructed for mining, manufacturing or irrigation purposes, water and gas mains, wagon and turnpike toll roads, and toll bridges, and all rights and privileges thereto belonging, or any way appertaining, all quarries and fossils in and under the land, and all other property which the law defines, or the courts may interpret, declare and hold to be real property under the letter, spirit, intent and meaning of the law, for the purposes of property taxation. Manufactured homes constitute real property when located on taxable land, and after a statement of intent to declare as real property has been recorded, provided said statement has not been revoked. Timber, forest, forest land, and forest products shall be defined as provided in chapter 17, title 63, Idaho Code.

(19) "Record owner" means the person or persons in whose name or names the property stands upon the records of the county recorder's office. Where the record owners are husband and wife at the time of notice of pending issue of tax deed, notice to one (1) shall be deemed and imputed as notice to the other spouse.

(20) "Special assessment" means a charge imposed upon property for a specific purpose, collected and enforced in the same manner as property taxes.

(21) "System value" means the market value for assessment purposes of the operating property when considered as a unit.

(22) "Tax code area" means a geographical area made up of one (1) or more taxing districts with one (1) total levy within the geographic area, except as otherwise provided by law.

(23) "Taxing district" means any entity or unit with the statutory authority to levy a property tax.

(24) "Taxable value" means market value for assessment purposes, less applicable exemptions or other statutory provisions.

(25) "Transient personal property" is personal property, specifically such construction, logging or mining machinery and equipment which is kept, moved, transported, shipped, hauled into or remaining for periods of not less than thirty (30) days, in more than one (1) county in the state during the same year.

(26) "Warrant of distraint" means a warrant ordering the seizure of personal property to enforce payment of property tax, special assessment, expense, fee, collection cost or charge collected in the same manner as personal property tax.

SECTION 2. That Section 63-401, Idaho Code, be, and the same is hereby amended to read as follows:

63-401. OPERATING PROPERTY ASSESSED BY STATE TAX COMMISSION. Operating property, completed or under construction, ~~and the franchises of persons operating a public utility, railroad or private railcar fleet~~ shall be assessed by the state tax commission.

SECTION 3. That Section 63-405, Idaho Code, be, and the same is hereby amended to read as follows:

63-405. ASSESSMENT OF OPERATING PROPERTY. (1) The state tax commission must assess all operating property at a meeting of the commission convening on the second Monday of August in each year, and must

complete the assessment of such property on the fourth Monday in August.

(2) The state tax commission shall determine the system value and calculate the allocation and apportionment of the system value for all operating property and specifically determine:

(a) The number of miles and the value per mile of each railroad in the state and for each taxing district in which such railroad may exist.

(b) The number of miles and the value per mile of each telephone ~~company~~ corporation in the state and for each taxing district in which such telephone ~~company~~ corporation may exist.

(c) The number of miles and the value per mile of each pipeline in the state and for each taxing district in which such pipeline may exist.

(d) The number of miles and the value per mile of each water company under the jurisdiction of the public utilities commission in the state, and for each taxing district in which such water company may exist. The value per mile of any line included in this subsection, except railroads, shall be determined by dividing the total value of such line within the state by the number of miles of such line within the state. The value per mile of railroad line shall be determined by apportionment of the total value of line within the state. The apportionment shall be based twenty percent (20%) on the ratio of line miles in the state to line miles in the county; forty percent (40%) on the ratio of net ton miles in the state to net ton miles in the county; and forty percent (40%) on the ratio of station revenues in the state to station revenues in the county. All operating property of railroads shall be apportioned to the counties as part of the railroad line in the county. The apportionment for taxing districts shall be the same as the apportionment among counties.

(e) The system value, the number of miles and the value per mile of each electric current transmission line and each electric current distribution line in each county separately, and for each taxing district within said county in which such transmission and distribution lines may exist. The value per mile of any line included in this subsection shall be determined by dividing the apportioned value of such line within each county by the number of miles of such line within said county.

(f) The system value of private railcar fleets entering or standing in Idaho in the year preceding the constituted lien as provided in section 63-411(3), Idaho Code.

(g) The system value and calculate the allocation and apportionment of the system value for all other operating property.

(3) If the value of property of any company assessable under this section is of such a nature that it cannot reasonably be apportioned on the basis of rail, wire, pipeline mileage, such as microwave and radio relay stations, the tax commission may adopt such other method or basis of apportionment to the county and taxing districts in which the property is situate as may be feasible and proper.

SECTION 4. That Section 63-602L, Idaho Code, be, and the same is hereby amended to read as follows:

63-602L. PROPERTY EXEMPT FROM TAXATION -- ~~CAPITAL-STOCK,--BONDS, DEPOSITS--AND~~ INTANGIBLE PERSONAL PROPERTY. (1) The following intangible personal property is exempt from taxation: capital stock~~,~~ and bonds. ~~and--other--intangible--personal--property.~~ The deposits in national banks, state banks, and savings and loan associations. Shares and accounts of savings and loan associations, credit unions or associations organized under the laws of the state of Idaho for the purpose of accumulating the savings and funds of their members and lending the same to their members. Goodwill, customer lists, contracts and contract rights, patents, trademarks, custom computer programs as defined in section 63-3616, Idaho Code, copyrights, trade secrets, franchises, licenses, rights-of-way which are possessory only and not accompanied by title.

(2) The commission shall promulgate rules which shall provide for the exclusion of exempt intangible personal property from taxable value of operating property. Such rules shall allow each taxpayer the right to elect one (1) of the following three (3) methods for exclusion of exempt intangible personal property from its taxable value:

(a) Separate exclusion of the exempt intangible personal property at the system level value; or

(b) Separate exclusion of the exempt intangible personal property at the state allocated value; or

(c) Exclusion of the exempt intangible personal property by valuation of only tangible personal property and nonexempt intangible personal property using valuation models which do not impound or include values of the exempt intangible personal property.

SECTION 5. This act shall be in full force and effect on and after January 1, 1999.

Approved March 25, 1998.

CHAPTER 401
(H.B. No. 818)

AN ACT

RELATING TO SPECIALTY ELECTRICIANS; AMENDING CHAPTER 10, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1020, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF LICENSES TO SPECIALTY ELECTRICIANS BY THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY, TO PROVIDE FOR RULES FOR THE EXAMINATION AND LICENSING OF SPECIALTY ELECTRICIANS AND TO ESTABLISH CLASSIFICATIONS FOR SPECIALTY ELECTRICIAN LICENSING, TO PROVIDE A DEFINITION AND TO PROVIDE THAT LICENSURE OF SPECIALTY ELECTRICIANS SHALL BE EXCLUSIVE TO THE STATE; DECLARING AN EMERGENCY; AND PROVIDING A SUNSET CLAUSE.

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

SECTION 1. That Chapter 10, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1020, Idaho Code, and to read as

follows:

54-1020. SPECIALTY ELECTRICIANS -- EXAMINATION AND LICENSING -- RULES -- LICENSURE AUTHORITY EXCLUSIVE TO THE STATE. (1) The administrator of the division of building safety is authorized to conduct examinations, pass upon the qualifications of applicants and to grant and issue licenses to qualified applicants to engage in the trade or business of specialty electrician. Such licenses shall not be transferable. The administrator is authorized and directed to enforce rules promulgated by the Idaho electrical board for the examination and licensing of specialty electricians.

(2) The Idaho electrical board is authorized and directed to promulgate rules for the examination and licensing of specialty electricians and for classifications of specialty electrician licensing.

(3) "Specialty electrician" means a person having the necessary qualifications, training, experience and technical knowledge to install, alter, repair and supervise the installing, altering or repairing of special classes of electrical wiring, apparatus or equipment for light, heat, power and other purposes or for special classes of electrical work.

(4) Licensure of specialty electricians shall be within the exclusive jurisdiction of the state and no local jurisdiction shall have the authority to require additional licensure or to issue licenses to specialty electricians licensed under this chapter which are inconsistent with the provisions of this chapter or rules promulgated by the division of building safety.

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.

SECTION 3. The provisions of this act shall be null, void and of no force and effect on and after June 30, 1999.

Approved March 25, 1998.

CHAPTER 402
(H.B. No. 819)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 1999; 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 $830,400 from the General Fund to the Office of the State Appellate Public Defender for the period July 1, 1998, through June 30, 1999.

SECTION 2. In accordance with Section 67-3519, Idaho Code, the

Office of the State Appellate Public Defender is authorized no more than eleven (11) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, 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 25, 1998.

CHAPTER 403
(H.B. No. 820)

AN ACT

RELATING TO THE BEAN COMMISSION; AMENDING SECTION 22-2912, IDAHO CODE, TO PROVIDE A DIFFERENT COMPENSATION SCHEDULE AND TO PROVIDE THAT COMPENSATION PAID TO MEMBERS OF THE BEAN COMMISSION ON AND AFTER JANUARY 1, 1998, SHALL NOT BE CONSIDERED SALARY AS DEFINED IN THE PUBLIC EMPLOYEE RETIREMENT SYSTEM LAW; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 22-2912, Idaho Code, be, and the same is hereby amended to read as follows:

22-2912. BEAN COMMISSION CREATED. There is hereby created and established in the department of self-governing agencies the Idaho bean commission, hereinafter called the commission. It shall be composed of nine (9) men or women engaged in the bean industry. The commission shall be appointed by the governor, and each member must have been a resident of the state of Idaho for a period of three (3) years immediately prior to his appointment, shall have had active experience in growing, processing or shipping of beans produced in the state of Idaho, and at least five (5) members of the commission shall be growers actually engaged in production of beans, but who are not handlers, dealers or processors. One (1) grower member of the commission shall be appointed from each of the districts provided for by this section. The four (4) remaining members of the commission may be engaged in the processing or shipping of beans, at least one (1) of whom must be engaged in the processing or shipping of snap bean seed. The processor or shipper members of the commission shall be appointed at large, keeping in mind insofar as possible geographic locations representative of the Idaho bean industry. The qualifications for membership on the commission shall continue throughout the respective terms of office of the commissioners. Upon recommendation of organizations of producers and shippers of beans, one (1) grower commissioner shall be appointed from district No. 1, which district shall be composed of the following counties: Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Clearwater, Nez Perce, Lewis and Idaho; one (1) grower commissioner shall be appointed from district No. 2, which district shall be composed of the following counties: Adams, Valley, Lemhi, Custer,

Boise, Washington, Payette, Gem, Canyon and Ada; one (1) grower commissioner shall be appointed from district No. 3, which district shall be composed of the following counties: Twin Falls, Owyhee and Elmore; one (1) grower commissioner shall be appointed from district No. 4, which district shall be composed of the following counties: Cassia, Oneida, Power, Bannock, Caribou, Bear Lake, Franklin and Minidoka; one (1) grower commissioner shall be appointed from district No. 5, which district shall be composed of the following counties: Camas, Blaine, Gooding, Lincoln, Jerome, Bingham, Bonneville, Butte, Jefferson, Madison, Teton, Fremont and Clark. Commencing on July 1, 1971 and July 1, 1973, when the terms of the present commission members expire, the next regularly appointed grower members for districts No. 1 and No. 2 will hold office for a term of one (1) year; the next regularly appointed grower member from district No. 3 will hold office for a term of four (4) years; the next regularly appointed grower member for district No. 4 will hold office for a term of one (1) year; the next regularly appointed grower member from district No. 5 will hold office for a term of four (4) years. Also, commencing on July 1, 1971 and July 1, 1973, when the terms of the present processor or shipper members, who were appointed heretofore from districts 2, 3, 4 and 5, expire, the processor or shipper members replacing the heretofore appointed processor or shipper members will serve the following terms: the processor or shipper member who is appointed to replace the processor or shipper member appointed from district No. 2 will serve a term of four (4) years; the processor or shipper member who is appointed to replace the processor or shipper member appointed from district No. 3 will serve a term of three (3) years; the processor or shipper member who is appointed to replace the processor or shipper member appointed from district No. 4 will serve a term of four (4) years; the processor or shipper member who is appointed to replace the processor or shipper member appointed from district No. 5 will serve a term of three (3) years. Thereafter, the governor shall appoint commissioners as their terms expire. Each commissioner shall serve for a term of four (4) years. Each commissioner shall hold office until his successor has been appointed.

A simple majority of members of the commission shall constitute a quorum for the transaction of business and for carrying out the duties of the commission. All commissioners shall take an oath of office before commencing their duties.

Each member of the commission shall be compensated as provided by section 59-509(dj), Idaho Code, provided however, that compensation paid to members of the commission on and after January 1, 1998, shall not be considered salary as defined in section 59-1302, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1998.

Approved March 25, 1998.

CHAPTER 404
(H.B. No. 821)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 1999; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT AS TO PAYMENTS FOR HOUSING STATE PRISONERS; EXEMPTING THE DIVISION OF PRISONS FROM THE PROVISIONS OF SECTION 67-3511(2), IDAHO CODE; AND EXPRESSING LEGISLATIVE INTENT AS TO EXPANSION OF THE PRIVATELY-OPERATED PRISON WITHOUT LEGISLATIVE REVIEW.

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

SECTION 1. There is hereby appropriated to the Department of Correction the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION DIVISION:					
FROM:					
General Fund	$ 2,756,200	$ 2,245,400	$ 592,800	$6,500,800	$12,095,200
Parolee Supervision Fund	51,000	14,700			65,700
Federal Grant Fund		70,800		846,800	917,600
Miscellaneous Revenue Fund	800	7,200			8,000
TOTAL	$ 2,808,000	$ 2,338,100	$ 592,800	$7,347,600	$13,086,500
II. PRISONS DIVISION:					
A. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$13,878,500	$ 2,391,400	$ 179,100		$16,449,000
Penitentiary Endowment Fund		1,187,600	70,900		1,258,500
Miscellaneous Revenue Fund	211,900	62,600			274,500
TOTAL	$14,090,400	$ 3,641,600	$ 250,000		$17,982,000
B. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Fund	$ 3,950,100	$ 1,243,900	$ 70,000		$ 5,264,000
Inmate Labor Fund	264,900	244,700	61,300		570,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund	79,300	31,800			111,100
TOTAL	$ 4,294,300	$ 1,520,400	$ 131,300		$ 5,946,000
C. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Fund	$ 2,219,700	$ 928,300	$ 120,000		$ 3,268,000
Inmate Labor Fund	62,500	96,600			159,100
Miscellaneous Revenue Fund	34,500	118,200			152,700
TOTAL	$ 2,316,700	$ 1,143,100	$ 120,000		$ 3,579,800
D. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$ 3,555,900	$ 1,147,200	$ 100,000		$ 4,803,100
Inmate Labor Fund	675,600	400,200			1,075,800
Miscellaneous Revenue Fund	40,400	34,900			75,300
TOTAL	$ 4,271,900	$ 1,582,300	$ 100,000		$ 5,954,200
E. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General Fund	$ 6,236,100	$ 1,693,700	$ 100,000		$ 8,029,800
Miscellaneous Revenue Fund	36,100	38,000			74,100
TOTAL	$ 6,272,200	$ 1,731,700	$ 100,000		$ 8,103,900
F. ST. ANTHONY WORK CAMP:					
FROM:					
General Fund	$ 1,213,000	$ 204,800	$ 28,700		$ 1,446,500
Inmate Labor Fund	317,100	464,300	51,200		832,600
Miscellaneous Revenue Fund		6,200			6,200
TOTAL	$ 1,530,100	$ 675,300	$ 79,900		$ 2,285,300
G. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General Fund	$ 2,597,000	$ 1,098,900	$ 11,800		$ 3,707,700
Federal Grant Fund		29,200			29,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Inmate Labor Fund	108,500	21,000			129,500
Miscellaneous Revenue Fund	77,800	14,400			92,200
TOTAL	$ 2,783,300	$ 1,163,500	$ 11,800		$ 3,958,600
H. INSTITUTIONAL SUPPORT:					
FROM:					
General Fund	$ 2,401,700	$ 8,124,400	$ 10,900	$ 272,700	$10,809,700
Federal Grant Fund	820,200	467,600			1,287,800
Miscellaneous Revenue Fund	136,800	25,100			161,900
TOTAL	$ 3,358,700	$ 8,617,100	$ 10,900	$ 272,700	$12,259,400
DIVISION TOTAL	$38,917,600	$20,075,000	$ 803,900	$ 272,700	$60,069,200
III. FIELD AND COMMUNITY SERVICES:					
FROM:					
General Fund	$10,013,400	$ 1,822,200	$ 631,600		$12,467,200
Parolee Supervision Fund	1,257,600	195,000	175,000		1,627,600
Federal Grant Fund		136,300			136,300
Inmate Labor Fund		559,300	40,000		599,300
Miscellaneous Revenue Fund	14,200	86,800			101,000
TOTAL	$11,285,200	$ 2,799,600	$ 846,600		$14,931,400
IV. COMMISSION FOR PARDONS AND PAROLE:					
FROM:					
General Fund	$ 744,700	$ 192,900	$ 11,600		$ 949,200
GRAND TOTAL	$53,755,500	$25,405,600	$2,254,900	$7,620,300	$89,036,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Correction is authorized no more than one thousand three hundred sixty and sixty-nine hundredths (1,360.69) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased

positions so authorized.

SECTION 3. It is legislative intent that the Department of Correction shall pay all bills for housing state prisoners in county jails and other facilities from its operating budget in the event funds appropriated to the department for this purpose are expended prior to the time the legislature can act on a supplemental appropriation request.

SECTION 4. To provide flexibility in dealing with prison populations and the accompanying conditions created, the Department of Correction's Prisons Division is hereby exempted from the provisions of Section 67-3511(2), Idaho Code, for all moneys appropriated to it for the period July 1, 1998, through June 30, 1999. Transfers of moneys between programs in the Prisons Division are still subject to the approval of the Division of Financial Management.

SECTION 5. It is legislative intent that the Department of Correction not enter into any contract to expand, through additional construction, the capacity of the proposed privately-operated prison on state land beyond the current 1,250 beds before submitting any expansion proposals before the Joint Finance-Appropriations Committee for review.

Approved March 25, 1998.

CHAPTER 405
(H.B. No. 699, As Amended)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-402C, IDAHO CODE, TO PROVIDE A STANDARD COLOR AND DESIGN FOR SPECIAL LICENSE PLATES TO ENSURE THAT THE PLATES ARE RECOGNIZABLE AS IDAHO PLATES AND TO PROVIDE A MORE EFFICIENT, COST-EFFECTIVE APPROACH TO SPECIAL LICENSE PLATE PROGRAMS, AND TO PROVIDE THAT SPECIAL LICENSE PLATES AND SPECIAL LICENSE PLATE PROGRAMS IN EXISTENCE ON OR BEFORE JUNE 30, 1998, SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS SECTION.

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 49-402C, Idaho Code, and to read as follows:

49-402C. SPECIAL LICENSE PLATE PROGRAMS -- STANDARDIZED PLATE COLOR AND DESIGN. (1) It is the intent of the legislature that special license plates issued by the department be readily recognizable as plates from the state of Idaho without losing the uniqueness for

which the special plate was designed and purchased. In addition, the legislature finds that the department can operate in a more efficient, cost-effective manner by conforming special plates to a basic color and design.

(2) No special license plates and no special license plate programs in existence on or before June 30, 1998, shall be affected by the provisions of this section. On and after July 1, 1998, any new special license plate program authorized or any redesign of an existing special license plate, shall use the same red, white and blue background as the standard issue of license plates described in section 49-433, Idaho Code, except that:

(a) The identification of county shall be omitted;

(b) The word "Idaho" shall appear on every plate;

(c) The inscription "Scenic Idaho" may be omitted without legislative consideration and approval; and

(d) No slogan shall be used that infringes upon, dilutes or compromises, or could be perceived to infringe upon, dilute or compromise, the trademarks of the state of Idaho, including, but not limited to, "Idaho Potatoes®," "Grown in Idaho®," "Famous Idaho Potatoes™" or "Famous Potatoes™."

The provisions of this section shall not apply to the second plate design issued pursuant to the provisions of section 49-417, Idaho Code.

(3) Any redesign required for a special plate to conform with legislative intent and the provisions of this section may be done in a manner similar to that used to produce the original design.

(4) The special plates shall conform in all other respects with the provisions of section 49-443, Idaho Code, relating to visibility requirements, display of registration number, time period for validity of plates, and reservation of plate numbers.

Approved March 26, 1998.

CHAPTER 406
(H.B. No. 673)

AN ACT

RELATING TO FINANCES OF MUNICIPAL CORPORATIONS; AMENDING SECTION 26-806, IDAHO CODE, TO ALLOW BANKS TO GIVE SECURITY FOR DEPOSITS OF MONEY OF THE STATE OF IDAHO AND ITS POLITICAL SUBDIVISIONS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 26-806, Idaho Code, be, and the same is hereby amended to read as follows:

26-806. GIVING SECURITY FOR DEPOSIT PROHIBITED. It shall be unlawful for any bank to pledge, mortgage or hypothecate to any depositor any of its real or personal property as security for any deposit except money of the United States, <u>the state of Idaho and its politi-</u>

cal subdivisions, and deposits for which security is required by any law of the United States, or required or permitted by any other statute of this state. Any pledge, mortgage or hypothecation made in violation hereof shall be unenforceable and void and any person, firm or corporations, holding or receiving any security or securities mortgaged or hypothecated, pledged or attempted to be pledged, shall, upon demand of any officer, director or stockholder of the bank or the director, be required forthwith to make return thereof, and the repayment of any deposit shall not be prerequisite to the recovery of any property so unlawfully pledged, hypothecated or mortgaged.

Approved March 26, 1998.

CHAPTER 407
(H.B. No. 712, As Amended)

AN ACT

RELATING TO LIMITATION ON BUDGET REQUESTS BY TAXING DISTRICTS; AMENDING SECTION 63-802, IDAHO CODE, TO PROVIDE THAT CITIES MAY INCREASE THEIR BUDGET IF THEIR LEVY IS BELOW A CERTAIN FIGURE AND TO PROVIDE FOR AN ELECTION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-802, Idaho Code, be, and the same is hereby amended to read as follows:

63-802. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsection (2) of this section for tax year 1995, and each year thereafter, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of:

(a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue that would have been generated by applying the levy of the previous year, not including any levy described in subsection (3) of this section, to any increase in market value subject to taxation resulting from new construction or change of land use classification as evidenced by the value shown on the new construction roll compiled pursuant to section 63-301A, Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor; or

(b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made; or

(c) The dollar amount of the actual budget request, if the taxing district is newly created; or

(d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code; or

(e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed; or

(f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section.

(2) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(3) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1998.

Approved March 26, 1998.

CHAPTER 408
(S.B. No. 1368)

AN ACT

RELATING TO TRAFFIC HAZARDS; AMENDING SECTION 49-221, IDAHO CODE, TO AUTHORIZE THE STATE OR LOCAL OFFICIAL ORDERING REMOVAL OF A TRAFFIC HAZARD TO SPECIFY THE TIME WITHIN WHICH REMOVAL MUST BE ACCOM-

PLISHED, AND TO AUTHORIZE LOCAL OFFICIALS TO GOVERN LOCAL STREETS AND ROADS NOT SUBJECT TO THIS SECTION.

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

SECTION 1. That Section 49-221, Idaho Code, be, and the same is hereby amended to read as follows:

49-221. REMOVAL OF TRAFFIC HAZARDS. (1) It shall be the responsibility of the owner of real property to remove from his property any hedge, shrubbery, fence, wall or other sight obstructions of any nature, except public traffic or highway signs, buildings and trees, where these sight obstructions constitute a potential traffic hazard. The above sight obstructions shall not extend more than three (3) feet, or less than ten (10) feet, in height above the existing center line highway elevation within the vision triangle of vehicle operators. The boundaries of the vision triangle are defined by measuring from the intersection of the edges of two (2) adjacent highways forty (40) feet along each highway and connecting the two (2) points with a straight line. The sight distance obstruction restriction is also applicable to railroad-highway grade crossings with vision triangle defined by measuring forty (40) feet along the railroad property line when intersecting with a highway.

(2) When the department or any local authority determines ~~upon the basis of an engineering and traffic investigation~~ that a traffic hazard exists, it ~~shall~~ may notify the owner and order that the hazard be removed within ~~fifteen (15) days~~ an appropriate time as determined by the department or local authority, considering the circumstances and conditions involved. The appropriate time may be specified in the notice. Such notice shall not obligate the department or local authorities to pursue removal or abatement until all legal remedies are exhausted.

(3) The failure of the owner to remove the traffic hazard within ~~fifteen (15) days~~ the appropriate specified time shall constitute a misdemeanor and every day the owner shall fail to remove the obstruction ~~shall~~ may be considered a separate and distinct offense. Civil action may also be initiated by state or local officials to enforce vision triangle restrictions.

(4) Local officials may, by resolution or ordinance, establish standards and procedures for protecting vision triangles at the intersections of local streets and roads. Such locally adopted standards or procedures, which may be more or less restrictive than the provisions hereof, shall not modify the standards established by this section concerning intersections with state maintained highways and intersections with railroads.

Approved March 26, 1998.

CHAPTER 409
(S.B. No. 1443)

AN ACT

RELATING TO COURT REPORTERS; AMENDING SECTION 1-1108, IDAHO CODE, TO PROVIDE FOR COURT REPORTERS ACCRUING AND TAKING SICK AND VACATION LEAVE.

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

SECTION 1. That Section 1-1108, Idaho Code, be, and the same is hereby amended to read as follows:

1-1108. DEPUTY AND ASSISTANTS -- APPOINTMENT, DUTIES AND COMPENSATION. When owing to the absence, vacation leave, sickness or other disability of the regular reporter, or when the business of the court demands it, the court may appoint a substitute or deputy court reporter to act in the place of the regular reporter during such absence, sickness or other disability of the regular reporter. ~~Such substitute-or-deputy-reporter-shall-perform-the-same-duties-prescribed by--law-for-the-regular-reporter;-give-such-bond-as-is-required-by-the court;-take-the-same-oath;-and-shall-receive-such-compensation-as--may be--allowed--by--the--court-when-employed-owing-to-the-absence-of-such regular-reporter;-to--be--paid--out--of--the--salary--of--the--regular reporter;--but--when--such-absence-is-on-account-of-sickness-then-such compensation-shall-be-paid-out-of-the-state-treasury--as--the--regular reporter's-salary-is-paid:-provided;-that-such-compensation-shall-only be--paid-for-the-time-such-deputy-reporter-is-actually-engaged-in-such work:-and;-provided-further;-that-in-all-criminal-cases-where;-in--the opinion--of--the--court;--the--notes--of--the-court-reporter-should-be extended-for-use-upon-the-trial-of-the-cause;-or-in-civil-cases--where in--the--opinion--of--the-court;-the-services-of-a-deputy-reporter-are required;-the-court-may-appoint--an--additional--or--substitute--court reporter;--to-aid-the-regular-court-reporter-in-reporting-such-causes; and-who-shall-be-paid-a-sum-to-be-fixed-by-the-court;-to-be-paid-as-is the-salary-of-the-regular-court-reporter~~ Reporters shall accrue vacation leave and sick leave time and may take vacation leave time or sick leave time in the same manner as other employees of the court.

When in the opinion of the court, or of the judge thereof, the services of one (1) or more persons are required to assist in the making of transcripts of testimony, the court or judge may by order authorize the reporter to employ such persons as may be necessary to facilitate the work in order that transcripts may be prepared without delay. Such assistants shall be entitled to charge and receive for their services in the preparation of transcripts the fees allowed by law therefor, the same to be paid by the reporter from the money received by him for such work.

Approved March 26, 1998.

CHAPTER 410
(H.B. No. 811)

AN ACT

RELATING TO LICENSING OF PUBLIC WORKS CONSTRUCTION MANAGERS; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 45, TITLE 54, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A STATEMENT OF LEGISLATIVE INTENT, TO PROVIDE DEFINITIONS, TO REQUIRE CONSTRUCTION MANAGERS ON PUBLIC WORKS PROJECTS TO BE LICENSED, TO ESTABLISH REQUIREMENTS FOR LICENSURE, TO PROVIDE FOR INTERIM AND TEMPORARY LICENSES, TO PROVIDE FOR LICENSE RENEWAL, TO PROVIDE FOR DISCIPLINARY PROCEEDINGS, TO PROVIDE FOR CERTIFICATES OF AUTHORITY FOR FIRMS PROVIDING CONSTRUCTION MANAGEMENT SERVICES ON PUBLIC WORKS PROJECTS, TO PROVIDE FOR LICENSE FEES AND DISPOSITION OF FUNDS, TO REQUIRE BIDDING OF CONSTRUCTION CONTRACTS, TO REQUIRE BONDING OF CONSTRUCTION MANAGERS, TO PROVIDE PENALTIES FOR VIOLATION OF THIS LAW, AND TO PROVIDE FOR INJUNCTIVE RELIEF; AMENDING SECTION 54-1905, IDAHO CODE, TO INCREASE MEMBERSHIP OF THE PUBLIC WORKS CONTRACTORS STATE LICENSE BOARD FROM FIVE TO SEVEN MEMBERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1908, IDAHO CODE, TO PROVIDE THAT FOUR MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 67-2320, IDAHO CODE, TO PROVIDE FOR SELECTION OF PROFESSIONALS PROVIDING DESIGN SERVICES ON PUBLIC WORKS CONSTRUCTION PROJECTS.

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

SECTION 1. That Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 45, Title 54, Idaho Code, and to read as follows:

CHAPTER 45
PUBLIC WORKS CONSTRUCTION MANAGEMENT LICENSING ACT

54-4501. SHORT TITLE. The provisions of this chapter shall be known and may be cited as the "Public Works Construction Management Licensing Act of 1998."

54-4502. LEGISLATIVE INTENT. In order to protect the public welfare and to promote the highest degree of professional conduct on the part of persons providing construction management services, the provisions of this chapter provide for the licensure of individuals and regulation of persons providing construction management services for public works projects.

54-4503. DEFINITIONS. As used in this chapter:

(1) "Applicant" means an individual who applies for a license or interim license pursuant to the provisions of this chapter.

(2) "Board" means the public works contractors state license board established in section 54-1905, Idaho Code.

(3) "Construction manager" means an individual who performs construction management services.

(4) "Construction management services" means representation of an owner in public works construction, as defined in section 54-1901(c), Idaho Code, by a person with substantial discretion and authority to plan including scheduling, estimating and approval, coordinate, manage or direct phases of a project for the construction, demolition, alteration, repair or reconstruction of any public work. This definition shall not include general contracting services provided by public works contractors who actually perform the work of construction, alteration, repair or reconstruction. This definition shall not include services for which the laws of this state require a person to be licensed as an architect or registered as a professional engineer, nor shall it include services traditionally and customarily provided by licensed architects or registered professional engineers.

(5) "Firm" means any business organization, including individuals, partnerships, corporations, associations or any combination thereof acting as a unit.

(6) "Licensure" means the issuance of a license to an applicant under the provisions of this chapter authorizing such individual to offer and perform construction management services.

(7) "Person" includes an individual, partnership, corporation, association or other organization.

54-4504. LICENSE REQUIRED. (1) Except as otherwise provided herein, on and after the effective date of this chapter, it shall be unlawful for any person to act as a construction manager in public works construction or to practice or perform or offer to perform construction management services in public works construction unless such construction management services are performed by or under the direct supervision of a licensed construction manager.

(2) Only an individual may be licensed as a construction manager. No firm may provide or hold itself out as providing construction management services unless it holds a certificate of authority issued by the board pursuant to section 54-4509, Idaho Code.

(3) Construction management services provided by a firm must be provided under the direct supervision and control of a licensed construction manager who is a principal or employee of the firm.

(4) An employee of an owner for which public works construction management services are to be performed shall not be required to obtain a license under this chapter in order to provide such services for his employer.

(5) A licensed architect, registered landscape architect or registered professional engineer shall not be required to obtain a license under this chapter in order to provide services for which the laws of this state require a person to be licensed as an architect, registered landscape architect or registered as a professional engineer or to provide services traditionally and customarily provided by licensed architects, registered landscape architects or registered professional engineers. Provided however, that such services shall not include the procurement of equipment or construction work required by law to be competitively bid for public works construction.

54-4505. REQUIREMENTS FOR LICENSURE. (1) Any individual who wishes to become licensed as a construction manager shall make written

application to the board on such forms or in such manner as the board may prescribe. Each applicant shall provide such proof as the board may require that he:

(a) Has a bachelor's degree in architecture, engineering or construction management from a college or university which has an educational program in architecture, engineering or construction management, as the case may be, accredited by a nationally recognized accrediting organization and that he has a minimum of four (4) years' experience in managing construction projects; or

(b) Has a minimum of five (5) years' experience in managing construction projects.

(2) If the board finds that the applicant meets the requirements for licensure set forth in subsection (1) of this section, it shall administer an examination to the applicant, which examination shall be offered at least once each year. The examination shall test the applicant's knowledge and proficiency in construction management issues, including health, environmental and safety regulations, interpretation of construction contracts, financing, scheduling and project administration for construction projects. The board shall establish a fee for administering the examination to each applicant which must be paid before the applicant may sit for the examination.

(3) An applicant who demonstrates knowledge and proficiency of construction management by virtue of passing the examination, and upon the payment of an appropriate fee, shall be issued a license authorizing that individual to provide construction management services.

54-4506. INTERIM AND TEMPORARY LICENSES. (1) For a period of one (1) year following the effective date of this chapter, each applicant who meets the requirements of section 54-4505(1), Idaho Code, shall be issued an interim construction manager's license pursuant to such application terms and conditions as the board may require. At the conclusion of the one (1) year period, following the effective date of this chapter, such interim licenses shall expire and thereafter all licensed construction managers shall be required to meet the licensure requirements as set forth in section 54-4505, Idaho Code.

(2) The board may issue a temporary license for a period not to exceed one (1) year to an applicant who provides satisfactory proof of possession of a valid construction manager's license issued by another state pursuant to requirements substantially similar to those set forth in section 54-4505, Idaho Code.

(3) Interim and temporary licenses may not be renewed nor their terms extended beyond the period set forth in this section.

54-4507. LICENSE RENEWAL. (1) Each construction management license issued under the terms of this chapter shall expire and become invalid one (1) year after issuance unless renewed in the manner prescribed by the board.

(2) Upon application, the board may grant inactive status to the holder of a license who is no longer actively providing construction management services.

(3) The board may provide for reinstatement of an expired or inactive license upon such terms as it may determine by rule.

54-4508. DISCIPLINARY PROCEEDINGS. (1) The board shall have the authority to deny or refuse to renew a license or certificate of authority, suspend or revoke a license, or impose probationary conditions on the holder of a license or certificate of authority, upon the following grounds:

(a) Fraud or deception in the procurement of a license or certificate of authority or in the taking of an examination required under the provisions of this chapter;

(b) Incompetence in the performance of a construction manager's duties;

(c) Fraud or deceit in the performance of a construction manager's duties; or

(d) Willful violation of the provisions of this chapter or the rules promulgated by the board.

(2) Proceedings which may result in the suspension or revocation of a license or certificate of authority, or the imposition of probationary conditions on the holder of a license or certificate of authority, shall be conducted in accordance with the provisions of chapter 52, title 67, Idaho Code; provided however, that the suspension of a certificate of authority, upon the notification by its holder that the construction manager it has designated to the board no longer is a principal or employee of the firm, shall not be required to be conducted in accordance with the provisions of chapter 52, title 67, Idaho Code.

(3) The board may, by rule, provide for the reinstatement of suspended or revoked licenses upon such terms as it may impose.

54-4509. CERTIFICATES OF AUTHORITY FOR FIRMS. (1) No firm shall provide or hold itself out as providing construction management services unless it has a certificate of authority issued by the board. If one (1) or more principals or employees of a firm are licensed construction managers the firm may apply to the board for a certificate of authority to provide and hold itself out as providing construction management services. An application for a certificate of authority shall:

(a) Designate the licensed construction manager or managers, who are principals or employees of the firm, specified to be in responsible charge of construction management services provided by the firm;

(b) Be accompanied by a statement signed by such licensed construction manager or managers accepting the responsibility and duty to provide construction management services for the firm; and

(c) Contain such other information as the board reasonably may require.

If the board concludes that the construction manager or managers designated by the firm is or are licensed in good standing and that the firm meets such other criteria reasonably established by the board, it shall issue a certificate of authority to the firm authorizing it to provide and hold itself out as providing construction management services.

(2) If the construction manager or managers designated by the firm cease to be licensed or to be principals or employees of the firm, the firm shall immediately notify the board in writing and shall

cease to hold itself out as qualified to offer construction management services. Upon receiving such notification the board shall suspend the firm's certificate of authority. If the firm is in the process of providing construction management services when its designated licensed construction manager becomes unable to provide those services, the firm shall complete the construction management services for the project by using the services of another licensed construction manager who need not be a principal or employee of the firm. The firm shall not provide or hold itself out as providing construction management services for other projects until the board has reinstated the firm's certificate of authority which the board shall do if the firm submits an application for reinstatement of its certificate of authority, which shall contain the information required for an original application together with such other information as the board reasonably may require, and the board finds such application to be satisfactory and complete.

54-4510. FEES -- DISPOSITION OF FUNDS. (1) The board shall adopt by rule reasonable fees not to exceed two hundred dollars ($200) for each of the following:

(a) Initial examination and licensing;

(b) License renewal;

(c) Inactive licenses;

(d) License reinstatement; and

(e) Issuance, suspension and reinstatement of a certificate of authority.

(2) All fees collected by the board shall be paid to the bureau of occupational licenses and deposited in the state treasury, to the credit of the occupational licenses fund, and shall be used only for the administration of the provisions of this chapter. All expenses incurred pursuant to the provisions of this chapter shall be paid from the occupational licenses fund. All fees collected by the board under the provisions of this chapter are hereby appropriated for one (1) year following the effective date of this chapter and thereafter as appropriated each year by the legislature for carrying out the purposes and objectives of this chapter and to pay all costs and expenses incurred in connection therewith. Such moneys shall be paid out on warrants drawn by the state controller upon presentation of proper vouchers approved by the board.

54-4511. BIDDING OF CONTRACTS -- DUAL CAPACITY. (1) In soliciting bids or awarding contracts for public works construction, a licensed construction manager shall comply with all notice and bidding laws with which an owner would be required to comply if it were to do the same activities without the assistance of a construction manager.

(2) A licensed construction manager and the firm of which he is a principal or employee shall not provide construction management services for a construction project on which the licensed construction manager or his firm also provides design services or other construction related services, whether as a contractor or subcontractor. Provided however, that this section shall not preclude a licensed architect or registered professional engineer from providing public works construction management services which are normally provided by

licensed architects or registered professional engineers for a project on which the person or firm has provided design services. Such public works construction management services provided by a licensed architect or registered professional engineer shall not include the procurement of equipment or construction work required by law to be competitively bid for public works construction.

(3) No public entity shall enter into a contract with any person or firm for construction management services if such person or firm is required to be licensed under this chapter unless:

(a) Such person holds a valid license or such firm holds a valid certificate issued pursuant to this chapter; and

(b) The selection of such construction manager is made pursuant to section 67-2320, Idaho Code.

54-4512. REQUIREMENT OF BOND. A licensed construction manager or firm providing public works construction management services shall be required to post a payment and performance bond or bonds in the amount of the total construction management contract to secure the construction manager's obligations thereunder.

54-4513. PENALTIES. Any person who violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor.

54-4514. INJUNCTIVE RELIEF. The board may bring an action in the district court for a temporary restraining order, preliminary injunction or permanent injunction against any person who violates the provisions of this chapter.

SECTION 2. That Section 54-1905, Idaho Code, be, and the same is hereby amended to read as follows:

54-1905. PUBLIC WORKS CONTRACTORS STATE LICENSE BOARD CREATED -- QUALIFICATIONS OF APPOINTEES -- TERM -- REMOVALS. There is hereby created in the department of self-governing agencies a public works contractors state license board to be composed of ~~five~~ seven (~~5~~7) members, who shall be appointed by the governor. One (1) member of the board shall be a "heavy construction" contractor, one (1) member shall be a "highway construction" contractor, two (2) members shall be "building construction" contractors, ~~and~~ one (1) member shall be a "specialty construction" contractor, as such construction terms are defined in this ~~act~~ chapter, one (1) member shall be a "construction manager," and one (1) member shall be a registered professional engineer. All contractor members of the board shall be contractors holding a current unrevoked license at the time of their appointment, actively engaged in the contracting business and have been so engaged for a period of not less than five (5) years preceding the date of their appointment, and who shall so continue in the contracting business during their term of office. Each member of the board next preceding his appointment shall have been a citizen and resident of the state of Idaho for at least five (5) years~~,-be-at-least-thirty--(30)--years--of age,-of-good-character-and-of-recognized-standing-in-his-branch-of-the contracting-business. Of-the-two-(2)-new-members-of-the-board-provided by--this-act,-one-(1)-shall-be-a-"building-construction"-contractor-to~~

~~be-appointed-for-a-term-expiring-December-31,-1957,-and-one-(1)--shall be--a--"specialty--construction"-contractor-to-be-appointed-for-a-term expiring-December-31,-1959.-Thereafter,-upon-the--expiration--of--each term--the~~ The governor shall appoint a member to said board for a term of six (6) years. Each member shall hold office after the expiration of his own term until his successor has been duly appointed and qualified. Vacancies on the board for any cause shall be filled by appointment by the governor for the balance of the unexpired term. The governor may remove any member of the board for misconduct, incompetence or neglect of duty. Each member of the board shall receive a certificate of appointment from the governor, and before entering upon the discharge of his duties, shall file with the secretary of state the constitutional oath of office. The board may, by written agreement, authorize the bureau of occupational licenses as agent to act in its interest.

SECTION 3. That Section 54-1908, Idaho Code, be, and the same is hereby amended to read as follows:

54-1908. MEETINGS -- QUORUM. The board shall hold not less than four (4) regular meetings each year, on a day not later than the fifteenth day of the month in each of the months of January, April, July and October, for the purpose of transacting such business as may properly come before it. At the April meeting of each year the board shall elect officers. Special or regular monthly meetings of the board may be held at such times as the board may provide in the ~~by-laws~~ bylaws. ~~Three~~ Four (~~3~~4) members of the board shall constitute a quorum. Two (2) members of the board may call a special meeting at any time. Due notice of each meeting of the board and the time and place thereof shall be given each member in the manner prescribed in the ~~by-laws~~ bylaws. Each member of the board shall be compensated as provided by section 59-509(h), Idaho Code, to be allowed and paid from the public works contractors license account, as hereinafter provided in this ~~act~~ chapter.

SECTION 4. That Section 67-2320, Idaho Code, be, and the same is hereby amended to read as follows:

67-2320. PROFESSIONAL SERVICE CONTRACTS WITH DESIGN PROFESSIONALS, CONSTRUCTION MANAGERS AND PROFESSIONAL LAND SURVEYORS. (1) Notwithstanding any other provision of law to the contrary, it shall be the policy of this state that all public agencies and political subdivisions of the state of Idaho ~~may~~ and their agents shall make selections for professional engineering, architectural, landscape architecture, construction management and professional land surveying services, including services by persons licensed pursuant to chapters 3, 12, ~~and~~ 30 and 45, title 54, Idaho Code, on the basis of qualifications and demonstrated competence and ~~may~~ shall negotiate contracts or agreements for such services on the basis of demonstrated competence and qualifications for the type of services required at fair and reasonable prices.

(2) In carrying out this policy, public agencies and political subdivisions of the state ~~may~~ shall use the following minimum guide-

lines in securing contracts for engineering, architectural, landscape architecture, construction management and land surveying services on projects for which the professional service fee is anticipated to exceed the total sum of twenty-five thousand dollars ($25,000), excluding professional services contracts previously awarded for an associated or phased project, and the expenditure is otherwise exempt from the bidding process provided by law:

(a) Encourage persons or firms engaged in the ~~design--professions~~ services being solicited to submit statements of qualifications and performance data;

(b) Establish and make available to ~~all--interested--persons~~ the public the criteria and procedures used for the selection of qualified persons or firms to perform such services;

(c) Select ~~from-the-interested-persons-those~~ the persons or firms whom the public agency or political subdivision determines ~~the most-highly~~ to be best qualified to provide the required services, ranked in order of preference, pursuant to the public agency or political subdivision's established criteria and procedures;

(d) Negotiate with the highest ~~qualified~~ ranked person or firm for a contract or agreement to perform such services at a price determined by the public agency or political subdivision to be reasonable and fair to the public after considering the estimated value, the scope, the complexity and the nature of the services;

(e) When unable to negotiate a satisfactory contract or agreement, formally terminate negotiations and undertake negotiations with the next ~~most-qualified~~ highest ranked person or firm, following the procedure prescribed in subsection (2)(d) of this section; ~~and~~

(f) When unable to negotiate a satisfactory contract or agreement with any of the selected persons or firms, continue with the selection and negotiation process provided in this section until a contract or agreement is reached;

(g) When public agencies or political subdivisions solicit proposals for engineering, architectural, landscape architecture, construction management or land surveying services for which the professional service fee is anticipated to exceed the total sum of twenty-five thousand dollars ($25,000), they shall publish public notice in the same manner as required for bidding of public works construction projects.

(h) In fulfilling the requirements of subsections (2)(a) through (2)(g) of this section, a public agency or political subdivision may limit its selection from a list of three (3) persons or firms selected and preapproved for consideration by the public agency or political subdivision. In establishing a preapproved list a public agency or political subdivision shall publish notice as set forth in subsection (2)(g) of this section. When selecting from such list, no notice shall be required.

(i) In fulfilling the requirements of subsections (2)(a) through (2)(g) of this section, a public agency or political subdivision may request information concerning a person's or firm's rates, overhead and multipliers, if any, however such information shall not be used by the public agency or political subdivision for the purpose of ranking in order of preference as required in subsec-

tion (2)(c) of this section.

(3) In securing contracts for engineering, architectural, landscape architecture, construction management or land surveying services on projects for which the professional service fee is anticipated to be less than the total sum of twenty-five thousand dollars ($25,000), the public agency or political subdivision may use the guidelines set forth in paragraphs (a) through (g) of subsection (2) of this section or establish its own guidelines for selection based on demonstrated competence and qualifications to perform the type of services required, followed by negotiation of the fee at a price determined by the public agency or political subdivision to be fair and reasonable after considering the estimated value, the scope, the complexity and the nature of services.

(4) When a public agency or political subdivision of the state has previously awarded a professional services contract to a person or firm for an associated or phased project the public agency or political subdivision may, at its discretion, negotiate an extended or new professional services contract with that person or firm.

(5) (a) For the purposes of this section, "public agency" shall mean the state of Idaho and any departments, commissions, boards, authorities, bureaus, universities, colleges, educational institutions or other state agencies which have been created by or pursuant to statute other than courts and their agencies and divisions, and the judicial council and the district magistrate's commission; (b) For the purposes of this section, "political subdivision" shall mean a county, city, airport, airport district, school district, health district, road district, cemetery district, ~~junior~~ community college district, hospital district, irrigation district, sewer district, fire protection district, or any other district or municipality of any nature whatsoever having the power to levy taxes or assessment, organized under any general or special law of this state. The enumeration of certain districts herein shall not be construed to exclude other districts or municipalities from this definition.

Approved March 27, 1998.

CHAPTER 411
(S.B. No. 1297, As Amended)

AN ACT

RELATING TO THE SEXUAL OFFENDER REGISTRATION AND NOTIFICATION ACT; REPEALING CHAPTER 83, TITLE 18, IDAHO CODE; AMENDING TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 83, TITLE 18, IDAHO CODE, TO ESTABLISH THE SEXUAL OFFENDER REGISTRATION AND NOTIFICATION ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE FINDINGS, TO PROVIDE DEFINITIONS, TO PROVIDE APPLICATION OF THE CHAPTER, TO PROVIDE FOR A CENTRAL REGISTRY OF SEXUAL OFFENDERS, TO PROVIDE NOTICE OF DUTY TO REGISTER AND INITIAL REGISTRATION, TO PROVIDE FOR LOCAL AND ANNUAL REGISTRATION, TO PROVIDE VERIFICATION OF ADDRESSES OF VIOLENT SEXUAL PREDATORS, TO PROVIDE FOR CHANGES OF ADDRESS OR

NAME, TO PROVIDE FOR RELEASE FROM REGISTRATION REQUIREMENTS AND EXPUNGEMENT, TO PROVIDE PENALTIES, TO ESTABLISH THE SEXUAL OFFENDER CLASSIFICATION BOARD AND TO PROVIDE FOR APPOINTMENT AND TERMS, VACANCIES, CHAIRMAN, QUORUM, QUALIFICATIONS OF MEMBERS AND COMPENSATION OF MEMBERS, TO PROVIDE FOR REMOVAL OF BOARD MEMBERS, TO PROVIDE THE DUTIES OF THE SEXUAL OFFENDER CLASSIFICATION BOARD, TO PROVIDE FOR COMPLIANCE WITH OPEN MEETING LAWS, TO AUTHORIZE EXECUTIVE SESSIONS AND TO REQUIRE A REPORT, TO REQUIRE PSYCHOSEXUAL EVALUATIONS UPON CONVICTION, TO REQUIRE PSYCHOSEXUAL EVALUATIONS UPON RELEASE, TO REQUIRE OFFENDERS TO PAY FOR PSYCHOSEXUAL EVALUATION, TO PROVIDE NOTICE OF THE BOARD'S DETERMINATION, TO PROVIDE FOR AN EXCEPTION TO THE REQUIREMENT OF NOTICE OF THE BOARD'S DETERMINATION TO OFFENDER, TO PROVIDE FOR JUDICIAL REVIEW, TO PROVIDE FOR VIOLENT SEXUAL PREDATORS MOVING FROM OTHER STATES, TO PROVIDE FOR PUBLIC ACCESS TO INFORMATION IN THE SEXUAL OFFENDER REGISTRY, TO PROVIDE FOR DISSEMINATION OF REGISTRY INFORMATION, TO PROVIDE EXEMPTIONS FROM CIVIL LIABILITY IN CERTAIN CIRCUMSTANCES AND TO PROVIDE PENALTIES FOR VIGILANTISM OR OTHER MISUSE OF INFORMATION OBTAINED UNDER THE ACT; AMENDING CHAPTER 8, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-805, IDAHO CODE, TO PROVIDE RESTRICTIONS ON NAME CHANGES FOR CONVICTED SEXUAL OFFENDERS AND TO PROVIDE NOTICE OF NAME CHANGES OF CONVICTED SEXUAL OFFENDERS BY THE COURT GRANTING THE CHANGE; AMENDING SECTION 9-340, IDAHO CODE, TO EXEMPT FROM PUBLIC DISCLOSURE VOTING RECORDS OF THE SEXUAL OFFENDER CLASSIFICATION BOARD AND DELETING AN EXEMPTION AND EXCEPTIONS REGARDING SEXUAL OFFENDER REGISTRATION INFORMATION; AND AMENDING SECTION 67-2345, IDAHO CODE, TO ALLOW THE SEXUAL OFFENDER CLASSIFICATION BOARD TO MEET IN EXECUTIVE SESSIONS.

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

SECTION 1. That Chapter 83, Title 18, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 18, 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 18, Idaho Code, and to read as follows:

CHAPTER 83
SEXUAL OFFENDER REGISTRATION NOTIFICATION AND COMMUNITY RIGHT-TO-KNOW ACT

18-8301. SHORT TITLE. This chapter shall be known and may be cited as the "Sexual Offender Registration Notification and Community Right-to-Know Act."

18-8302. FINDINGS. The legislature finds that sexual offenders present a significant risk of reoffense and that efforts of law enforcement agencies to protect their communities, conduct investigations and quickly apprehend offenders who commit sexual offenses are impaired by the lack of current information available about individuals who have been convicted of sexual offenses who live within their

jurisdiction. The legislature further finds that providing public access to certain information about convicted sexual offenders assists parents in the protection of their children. Such access further provides a means for organizations that work with youth or other vulnerable populations to prevent sexual offenders from threatening those served by the organizations. Finally, public access assists the community in being observant of convicted sexual offenders in order to prevent them from recommitting sexual crimes. Therefore, this state's policy is to assist efforts of local law enforcement agencies to protect communities by requiring sexual offenders to register with local law enforcement agencies and to make certain information about sexual offenders available to the public as provided in this chapter.

18-8303. DEFINITIONS. As used in this chapter:

(1) "Board" means the sexual offender classification board described in section 18-8312, Idaho Code.

(2) "Central registry" means the registry of convicted sexual offenders maintained by the Idaho department of law enforcement pursuant to this chapter.

(3) "Department" means the Idaho department of law enforcement.

(4) "Incarceration" means committed to the custody of the Idaho department of correction, but excluding cases where the court has retained jurisdiction.

(5) "Offender" means an individual convicted of an offense listed and described in section 18-8304, Idaho Code, or a substantially similar offense under the laws of another state or in a federal, tribal or military court or the court of another country.

(6) "Offense" means a sexual offense listed in section 18-8304, Idaho Code.

(7) "Predatory" means actions directed at an individual who was selected by the offender for the primary purpose of engaging in illegal sexual behavior.

(8) "Psychosexual evaluation" means an evaluation which specifically addresses sexual development, sexual deviancy, sexual history and risk of reoffense as part of a comprehensive evaluation of an offender.

(9) "Residence" means the offender's present place of abode.

(10) "Violent sexual predator" means a person who has been convicted of an offense listed in section 18-8312, Idaho Code, and who has been determined to pose a risk of committing an offense or engaging in predatory sexual conduct.

18-8304. APPLICATION OF CHAPTER. (1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in section 18-909 (rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-1506 (sexual abuse of a child under sixteen years of age), 18-1506A (ritualized abuse of a child), 18-1507 (sexual exploitation of a child), 18-1507A (possession of sexually

exploitative material for other than a commercial purpose), 18-1508 (lewd conduct with a minor child), 18-1508A (sexual battery of a minor child sixteen or seventeen years of age), 18-4003(d) (murder committed in perpetration of rape or in perpetration of lewd conduct with a child less than twelve years of age), 18-4116 (indecent exposure, but excluding a misdemeanor conviction), 18-4502 (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), 18-4503 (second degree kidnapping where the victim is an unrelated minor child), 18-6101 (rape, but excluding 18-6101(1) where the defendant is eighteen years of age or younger), 18-6108 (male rape), 18-6602 (incest), 18-6605 (crime against nature), or 18-6608, Idaho Code, (forcible sexual penetration by use of a foreign object);

(b) Enters the state on or after July 1, 1993, and who has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts, that is substantially equivalent to the offenses listed in subsection (1)(a) of this section.

(c) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail facility or a penal facility or is under probation or parole supervision, on or after July 1, 1993.

(2) The provisions of this chapter shall not apply to any such person while the person is incarcerated in a correctional institution of the department of correction, a county jail facility or committed to a mental health institution of the department of health and welfare.

(3) A conviction for purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

18-8305. CENTRAL REGISTRY -- NOTICE TO AGENCIES. (1) The department shall establish and maintain a central sexual offender registry separate from other records maintained by the department. The registry shall include, but is not limited to, fingerprints, photographs, and other information collected from submitted forms and other communications relating to notice of duty to register, sexual offender registration and notice of address change.

(2) Upon receipt of information pursuant to section 18-8307, Idaho Code, the department shall notify the law enforcement agencies having jurisdiction where the offender resides or will reside, enter information in the central registry, and transmit the appropriate information as required by the federal bureau of investigation for inclusion in the national sexual offender registry. Upon receipt of a notice of an offender changing residence to another state, the department shall notify the central registry of the state to which the offender is moving. The department shall adopt rules relating to providing notice of address changes to law enforcement agencies, develop-

ing forms, operating the central registry, reviewing and correcting records, and expunging records of persons who are deceased, whose convictions have been reversed or who have been pardoned, and those for whom an order of expungement or relief from registration has been entered pursuant to section 18-8310, Idaho Code.

(3) The department shall develop and distribute to appropriate agencies the standardized forms necessary for the administration of the registry and shall provide appropriate agencies with instructions for completing and submitting the forms. The attorney general shall approve the forms and instructions prior to distribution.

18-8306. NOTICE OF DUTY TO REGISTER AND INITIAL REGISTRATION. (1) When a person is sentenced for an offense identified in section 18-8304, Idaho Code, the prosecuting attorney shall seek and the court shall order a designated law enforcement agency to immediately fingerprint that person unless the person has been fingerprinted and photographed previously for the same offense. Fingerprints and photographs may be taken at the jail or correctional facility to which the person is remanded or sentenced. The fingerprints and photographs taken pursuant to this subsection shall be submitted to the department as provided in section 67-2911, Idaho Code.

(2) A person convicted of an offense identified in section 18-8304, Idaho Code, and released on probation without a sentence of incarceration in a county jail or correctional facility, including release pursuant to a withheld judgment or release from any mental institution, shall be notified by the sentencing court of the duty to register pursuant to the provisions of this chapter. The written notification shall be a form provided by the department and approved by the attorney general and shall be signed by the defendant. The court shall retain one (1) copy, provide one (1) copy to the offender, and submit one (1) copy to the central registry within three (3) working days of release.

(3) With respect to an offender convicted of a sexual offense identified in section 18-8304, Idaho Code, and sentenced to a period of incarceration in a jail or correctional facility and subsequently released, placed on probation, or paroled, the department of correction or jail shall provide, prior to release from confinement, written notification of the duty to register. The written notification shall be a form provided by the department and approved by the attorney general and shall be signed by the offender. The department of correction or jail shall retain one (1) copy, provide one (1) copy to the offender, and submit one (1) copy to the central registry within three (3) working days of release.

(4) The sheriff of each county shall provide written notification, on a form provided by the department of transportation and approved by the attorney general, of the registration requirements of this chapter to any person who enters this state from another jurisdiction and makes an application for a license to operate a motor vehicle in this state. The written notice shall be signed by the person and one (1) copy shall be retained by the sheriff's office and one (1) copy shall be provided to the person.

(5) Notification of the duty to register as set forth in subsections (2) and (3) of this section shall constitute an initial regis-

tration for the purpose of establishing a record in the central registry.

(6) The notification form provided by the department and approved by the attorney general shall:

(a) Explain the duty to register, the procedure for registration and penalty for failure to comply with registration requirements;

(b) Inform the offender of the requirement to provide notice of any change of address within Idaho or to another state within five (5) days of such change;

(c) Inform the offender of the requirement to register in a new state within ten (10) days of changing residence to that state; and

(d) Obtain from the offender and agency or court, information required for initial registration in the central registry, as prescribed by rules promulgated by the department.

(7) The official conducting the notice and initial registration shall ensure that the notification form is complete, that the offender has read and signed the form, and that a copy is forwarded to the central repository within the required time period.

(8) Information required for initial registration in the central registry shall include, but is not limited to: name and aliases of the offender; social security number; physical descriptors; current address or physical description of current residence; offense for which convicted, sentence and conditions of release; treatment or counseling received; and risk assessment or special category of offender.

(9) No person subject to registration shall willfully furnish false or misleading information when complying with registration and notification requirements of this chapter.

18-8307. LOCAL AND ANNUAL REGISTRATION. (1) Within ten (10) days of coming into any county to establish residence or temporary domicile, an offender shall register with the sheriff of the county. The offender thereafter shall update the registration annually. If the offender intends to reside in another state, the offender shall register in the other state within ten (10) days of moving to that state.

(2) Annual registration shall be conducted as follows:

(a) On or about the first day of the month containing the anniversary date of the initial registration, the department shall mail a non-forwardable notice of annual registration to the offender's last reported address;

(b) Within ten (10) days of the mailing date of the notice, the offender shall appear in person at the office of the sheriff with jurisdiction for the purpose of completing the registration process;

(c) If the notice is returned to the department as not delivered, the department shall inform the sheriff with whom the offender last registered of the returned notice.

(3) Registration, whether initial or annual, shall consist of a form provided by the department and approved by the attorney general, which shall be signed by the offender and shall require the following information about the offender:

(a) Name and all aliases which the person has used or under which

the person has been known;

(b) A complete description of the person including the date of birth and social security number;

(c) Name of each offense enumerated in section 18-8304, Idaho Code, of which the person was convicted, where each offense was committed, where the person was convicted of each offense, and the name under which the person was convicted of each offense;

(d) The name and location of each hospital, jail or penal institution to which the person was committed for each offense covered under this chapter;

(e) School or college enrollment; and

(f) Address or physical description of current residence and place of employment.

(4) At the time of registration, the sheriff shall obtain a photograph and fingerprints, in a manner approved by the department, and may require the offender to provide full palm print impressions of each hand. An offender shall pay a fee of ten dollars ($10.00) to the sheriff at the time of each registration. The sheriff may waive the registration fee if the offender demonstrates indigency. The fees collected under this section shall be used by the sheriff to defray the costs of sexual offender registration.

(5) The sheriff shall forward the completed and signed form, photograph and fingerprints to the department within three (3) working days of the registration.

(a) The official conducting the initial registration shall ensure that the notification form is complete and that the offender has read and signed the form.

(b) No person subject to registration shall furnish false or misleading information when complying with registration and notification requirements of this chapter.

(6) The sheriff, or appointed deputies, may visit the residence of a registered sexual offender within the county at any reasonable time to verify the address provided at the time of registration.

18-8308. VERIFICATION OF ADDRESS OF VIOLENT SEXUAL PREDATOR. (1) The address or physical residence of an offender designated as a violent sexual predator shall be verified by the department every ninety (90) days between annual registrations.

(2) The procedure for verification shall be as follows:

(a) The department shall mail a nonforwardable notice of address verification quarterly, between annual registrations, to each offender designated as a violent sexual predator.

(b) Each offender designated as a violent sexual predator shall complete, sign and return the notice of address verification form to the department within ten (10) days of the mailing date of the notice.

(c) If the notice of address verification is returned to the department as not delivered, the department shall notify the sheriff with whom the offender designated as a violent sexual predator last registered.

18-8309. CHANGE OF ADDRESS OR NAME. (1) If an offender changes address or actual residence, the offender shall provide written notice

of the new address within five (5) days after the change to the sheriff of the county where the offender is required to register. The notice shall be on a form provided by the department. Within three (3) working days after receipt of the notice, the sheriff shall forward a copy of the notice to the department.

(2) If an offender changes address to another state, the offender shall provide written notice of the new address within five (5) days after the change to the department.

(3) An offender whose legal name is changed by marriage, judicial order or any other means shall provide written notice of the name change to the sheriff and the department within five (5) days of the order, event or other occurrence.

18-8310. RELEASE FROM REGISTRATION REQUIREMENTS -- EXPUNGEMENT. (1) Any person, other than one designated as a violent sexual predator, may, after a period of ten (10) years from the date the person was released from incarceration or placed on parole, supervised release or probation, whichever is greater, petition the district court for a show cause hearing to determine whether the person shall be exempted from the duty to register as a sexual offender. In the petition the petitioner shall:

(a) Provide clear and convincing evidence that the petitioner is not a risk to commit a new violation for any violent crime or crime identified in section 18-8304, Idaho Code;

(b) Provide an affidavit indicating that the petitioner does not have a criminal charge pending nor is the petitioner knowingly under criminal investigation for any violent crime or crime identified in section 18-8304, Idaho Code;

(c) Provide proof of service of such petition upon the county prosecuting attorney for the county in which the application is made; and

(d) Provide a certified copy of the judgment of conviction which caused the petitioner to report as a sexual offender.

The district court may grant a hearing if it finds that the petition is sufficient. The court shall provide at least sixty (60) days prior notice of the hearing to the petitioner and the county prosecuting attorney.

The court may exempt the petitioner from the reporting requirement only after a hearing on the petition in open court and only upon proof by clear and convincing evidence that the petitioner is not a risk to commit a new violation for any violent crime or crime identified in section 18-8304, Idaho Code.

(2) Concurrent with the entry of any order exempting the petitioner from the reporting requirement, the court may further order that any information regarding the petitioner be expunged from the central registry.

18-8311. PENALTIES. (1) An offender subject to registration who fails to register or provide any notice as required by this chapter shall be guilty of a felony and shall be punished by imprisonment in the state prison system for a period not to exceed five (5) years and by a fine not to exceed five thousand dollars ($5,000). If the offender is on probation or other supervised release or suspension

from incarceration at the time of the violation, the probation or supervised release or suspension shall be revoked and the penalty for violating this chapter shall be served consecutively to the offender's original sentence.

(2) An offender subject to registration under this chapter, who willfully provides false or misleading information in the registration required, shall be guilty of a felony and shall be punished by imprisonment in a state prison for a period not to exceed five (5) years and a fine not to exceed five thousand dollars ($5,000).

18-8312. SEXUAL OFFENDER CLASSIFICATION BOARD -- APPOINTMENT -- TERMS -- VACANCIES -- CHAIRMAN -- QUORUM -- QUALIFICATIONS OF MEMBERS -- COMPENSATION OF MEMBERS. (1) A sexual offender classification board is hereby created within the Idaho department of correction. The board shall consist of four (4) members appointed by the governor by and with the advice and consent of the senate. The purpose of the board shall be to assess the risk of reoffense of any offender convicted and incarcerated for commission of a crime as set forth in sections 18-1506, 18-1506A, 18-1508, 18-4003(d), 18-4502, 18-6101, 18-6108, 18-6602, 18-6605 and 18-6608, Idaho Code, and who is scheduled to be released from incarceration, to determine whether the offender should be designated a violent sexual predator. To the extent practicable, the board's determination shall be made prior to the offender's release from incarceration.

(2) The terms of the members shall expire as follows: one (1) member on January 1, 2001; one (1) member on January 1, 2002; one (1) member on January 1, 2003; and one (1) member on January 1, 2004. Thereafter, any person appointed a member of the board shall hold office for six (6) years.

(3) Vacancies in the membership of the board shall be filled in the same manner in which the original appointments are made. Members appointed to a vacant position shall serve the remainder of the unexpired term.

(4) Qualifications of members.

(a) At least one (1) member of the board shall have, by education, experience and training, expertise in the assessment and treatment of sexual offenders.

(b) At least one (1) member of the board shall be employed in the field of law enforcement and have training in the field of the behavior and treatment of sexual offenders.

(c) At least one (1) member of the board shall be an advocate for victims of offenders.

(5) The board shall elect a chairman from its members.

(6) A quorum shall exist when at least three (3) members of the board are present, provided that one (1) member present has, by education, experience and training, expertise in the assessment and treatment of sexual offenders.

(7) Members shall be compensated as provided by section 59-509(o), Idaho Code.

18-8313. REMOVAL OF BOARD MEMBERS. The governor may remove members of the board for reasons of inefficiency, neglect of duty, malfeasance in office, commission of a felony or inability to perform the

duties of office.

18-8314. DUTIES OF THE SEXUAL OFFENDER CLASSIFICATION BOARD. (1) The board shall evaluate offenders scheduled for release from incarceration, who were sentenced and convicted for one (1) or more of the crimes set forth in sections 18-1506, 18-1506A, 18-1508, 18-4003(d), 18-4502, 18-6101, 18-6108, 18-6602, 18-6605 and 18-6608, Idaho Code, for the purpose of determining whether the offender should be designated as a violent sexual predator presenting a high risk of reoffense.

(2) The board shall establish standards for psychosexual evaluations and the qualifications for approved evaluators performing evaluations pursuant to sections 18-8316 and 18-8317, Idaho Code.

(3) The board shall establish guidelines to determine whether an offender scheduled for release is a violent sexual predator presenting a high risk of reoffense. The guidelines shall be established with the assistance of sexual offender treatment and law enforcement professionals who have, by education, experience or training, expertise in the assessment and treatment of sexual offenders.

(a) Factors to be used in establishment of the guidelines must be supported in the sexual offender assessment field as criteria reasonably related to the risk of reoffense and be objective criteria that can be gathered in a consistent and reliable manner.

(b) The guidelines shall include, but are not limited to, the following general categories for risk assessment: seriousness of the offense, offense history, whether the offense was predatory, characteristics of the offender, characteristics of the victim, the relationship of the offender to the victim, the number of victims and the number of violations of each victim.

(4) If the offender has indicated an intention to reoffend if released into the community and the available record reveals credible evidence to support this finding, then the offender shall be deemed a violent sexual predator regardless of application of the guidelines.

(5) Once the board has made its determination, it shall set forth written findings which shall include:

(a) The board's risk assessment and the reasons upon which the risk assessment was based; and

(b) The board's determination whether the offender should be designated as a violent sexual predator and the reasons upon which the determination was based.

18-8315. COMPLIANCE WITH OPEN MEETING LAW -- EXECUTIVE SESSIONS AUTHORIZED -- REPORT REQUIRED. (1) All meetings of the board shall be held in accordance with the open meeting law as provided in chapter 23, title 67, Idaho Code, except:

(a) Consideration of and discussions pertaining to documents not subject to public disclosure, such as the presentence investigation report, certain medical or psychological reports and any reports, orders or other documents sealed by court order;

(b) Deliberations and decisions concerning the classification of violent sexual predators; and

(c) Votes of individual members in arriving at the classification decisions shall not be made public, provided that the board shall

maintain a record of the votes of the individual members as required in subsection (2) of this section.

(2) A written record of the vote to classify an offender as a violent sexual predator by each board member in each case reviewed by that member shall be produced by the board. In accordance with section 9-340, Idaho Code, the record produced by the board pursuant to this section shall be kept confidential and privileged from disclosure, provided the record shall be made available, upon request, to the governor and the chairman of the senate judiciary and rules committee and the chairman of the house of representatives judiciary, rules and administration committee, for all lawful purposes. Distribution of the report by a board member or an employee of the board to any person not specifically listed in this section shall be a misdemeanor.

(3) Nothing contained in this section shall prevent any person from obtaining the results of any classification action by the board without reference to the manner in which any member voted. This information can be obtained through a public records request made to the sexual offender registry maintained by the department of law enforcement.

(4) Nothing contained herein shall prevent the governor and chairman of the senate judiciary and rules committee and the chairman of the house of representatives judiciary, rules and administration committee from attending any meeting including an executive session of the sexual offender classification board.

18-8316. REQUIREMENT FOR PSYCHOSEXUAL EVALUATIONS UPON CONVICTION. An offender convicted of any offense listed in section 18-8304, Idaho Code, shall submit to an evaluation to be completed and submitted to the court in the form of a written report from a board-certified psychiatrist or by a licensed master's or doctoral level mental health professional for the court's consideration prior to sentencing and incarceration or release on probation. The court shall select the psychiatrist or a licensed master's or doctoral level mental health professional to perform the evaluation from a list of approved evaluators compiled by the district court. A psychiatrist or licensed master's or doctoral level mental health professional performing such an evaluation shall be disqualified from providing any treatment ordered as a condition of any sentence, unless waived by the court. For offenders convicted of an offense listed in section 18-8314, Idaho Code, the evaluation shall state whether it is probable that the offender is a violent sexual predator. An evaluation conducted pursuant to this section shall be done in accordance with the standards established by the board pursuant to section 18-8314, Idaho Code.

18-8317. REQUIREMENT FOR PSYCHOSEXUAL EVALUATIONS UPON RELEASE. Every offender convicted and incarcerated for any offense listed in section 18-8314, Idaho Code, and either referred for evaluation by the department or whose evaluation under section 18-8316, Idaho Code, states that the offender is a probable violent sexual predator, shall submit to a psychosexual evaluation. The evaluation is to be performed prior to release from incarceration for the purpose of assessing risk of reoffense and to determine whether the offender should be desig-

nated as a violent sexual predator. These evaluations shall be performed either by a board-certified psychiatrist or a licensed master's or doctoral level mental health professional licensed by this state pursuant to chapter 18, title 54, Idaho Code, and chapter 23, title 54, Idaho Code, respectively, who has, by education, experience and training, expertise in the assessment and treatment of sexual offenders. The psychiatrist or licensed master's or doctoral level mental health professional performing an evaluation under this section shall not be a member of the sexual offender classification board at the time the evaluation is performed. The individual performing the evaluation shall be disqualified from providing any treatment ordered or attached as a condition of parole, unless waived by the department of correction. An evaluation conducted pursuant to this section shall be done in accordance with the standards established by the board pursuant to section 18-8314, Idaho Code.

18-8318. OFFENDER REQUIRED TO PAY FOR PSYCHOSEXUAL EVALUATION. The offender shall be required to pay for the cost of the psychosexual evaluations performed under this chapter, unless the offender demonstrates indigency. In such case, the psychosexual evaluation performed pursuant to section 18-8316, Idaho Code, shall be paid for by the county, and the evaluation performed pursuant to section 18-8317, Idaho Code, shall be paid for by the department of correction.

18-8319. NOTICE OF THE BOARD'S DETERMINATION. (1) Subject to the exception identified in section 18-8320, Idaho Code, the offender and the sheriff of the county in which the offender resides or intends to reside upon release shall be notified by the board that an offender has been designated as a violent sexual predator. This notice shall be in the form of the board's written findings.

(2) The board shall serve a copy of its written findings to the offender at the same time the board serves the copy to the sheriff.

(3) The board's notice to the offender shall also inform the offender:

(a) That the offender may challenge the designation as a violent sexual predator by judicial review;

(b) That unless application is made to the court of the county in which the offender resides or intends to reside on or before the date set forth in the notice, which shall be no less than fourteen (14) calendar days after the notice is given, the offender shall be deemed to have waived the right to challenge the designation;

(c) That the offender has the right to retain counsel and that counsel will be provided by the court if the offender cannot afford counsel; and

(d) How such application should be made if counsel is not retained. If counsel is not retained, a simple letter delivered to the courthouse in the county of the offender's residence, which encloses a copy of the board's written findings and indicates the offender's objection or disagreement with it, shall suffice.

18-8320. EXCEPTION TO NOTICE OF BOARD'S CLASSIFICATION DETERMINATION TO OFFENDER. Beginning with the effective date of this chapter, if an offender avoids service of the notice of the board's designation

of the offender as a violent sexual predator, or if after a good faith effort to serve the offender, service has not been completed within ten (10) working days of the date that designation has been made, notice to the offender may be dispensed with and the offender shall be deemed to have waived the right to judicial review as otherwise provided in this chapter.

18-8321. JUDICIAL REVIEW. (1) Judicial review of an offender's challenge to the designation as a violent sexual predator is civil, not criminal, and remedial, not adversarial.

(2) Immediately upon receipt of an offender's objection or challenge to the designation as a violent sexual predator, the court shall set a date for a summary hearing.

(3) Upon notification of a date for a summary hearing, the prosecutor shall forthwith turn over all papers, documents and other relevant material to the court.

(4) Judicial review under this chapter shall be conducted as a summary, in camera review proceeding, in which the court decides only whether to affirm or reverse the board's designation of the offender as a violent sexual predator.

(5) The court shall have broad discretion over whether and to what extent witnesses and cross-examination will be allowed.

(6) The rules of evidence do not apply.

(7) The court may rely on documentary evidence, such as expert opinions, for all issues.

(8) Nonconviction offense, i.e., criminal activity that has not been the subject of a conviction, shall be considered in review of the board's designation, provided that there is sufficient evidence that the nonconviction offense occurred.

(9) Where the proof, whether in the form of reliable hearsay, affidavits, or offers of live testimony, creates a genuine issue of material fact as to whether the offender is a violent sexual predator, the court should convene a fact-finding hearing and permit live testimony.

(10) The state bears the burden of presenting a prima facie case that justifies the designation as a violent sexual predator.

(11) The court shall affirm the board's determination unless persuaded by a preponderance of the evidence that it does not conform to the law or the guidelines.

(12) The offender is entitled to challenge the designation as a violent sexual predator based upon two (2) grounds:

(a) The offender may introduce evidence that the calculation that led to the designation as a violent sexual predator was incorrectly performed either because of a factual error, because the offender disputes a prior offense, because the variable factors were improperly determined, or for similar reasons; and

(b) The offender may introduce evidence at the hearing that the designation as a violent sexual predator does not properly encapsulate the specific case, i.e., the offender may maintain that the case falls outside the typical case of this kind and, therefore, that the offender should not be designated as a violent sexual predator.

(13) Either party may appeal the decision of the court.

(14) Offenders who are not designated as violent sexual predators are not entitled to judicial review under this section.

18-8322. VIOLENT SEXUAL PREDATORS MOVING FROM OTHER STATES. Offenders moving to Idaho from other states who have been classified as violent sexual offenders or given a substantially similar classification shall be classified violent sexual offenders under this chapter. Any offender who is so classified shall have the right to judicial review of the classification, but the burden of proof in such proceedings shall be upon the offender.

18-8323. PUBLIC ACCESS TO SEXUAL OFFENDER REGISTRY INFORMATION. Information within the sexual offender registry collected pursuant to this chapter is subject to release only as provided by this section.

(1) The department or sheriff shall provide public access to information contained in the central sexual offender registry by written request only. The department shall promulgate rules defining the processes for providing information to the public and the requirements for retention of inquiry records by the department and sheriff.

(2) The department and sheriff will respond to requests for sexual offender registry information within ten (10) working days of receipt of the written request.

(a) Any person may inquire about a named individual by submitting an information request form obtained from the department or sheriff. The department shall promulgate rules outlining the methods and means of submitting requests. Information required for inquiry shall include the individual's full name and address, or full name and date of birth. The requester shall provide his full name, street address and driver's license or social security number.

(b) Any person may request a list of registered sexual offenders by geographic area, such as by county or by zip code area, as determined by rule, by submitting an information request form obtained from the department or sheriff. The requester shall provide his full name, street address and driver's license, social security number, or state identification number.

(c) Schools, organizations working with youth, women or other vulnerable populations may request a statewide list or lists by geographic area within the state.

(d) The department and sheriff may collect a fee of five dollars ($5.00) for each inquiry response.

(e) Information to be provided includes the offender's name, address, any aliases or prior names, date of birth, the crime of conviction, and the place of conviction. The information provided shall also state whether the offender is a violent sexual predator.

(f) Identity of the offender's employer or educational institution currently attended will not be provided for any registered sexual offender.

(g) Where a crime category such as "incest" may serve to identify a victim, that crime will be reported as section 18-5606, Idaho Code.

(h) Any information identifying any person related to, living with, working for, employing or otherwise associated with a regis-

tered sexual offender shall be excluded from release.

(3) The department shall provide to any person, upon written request and at a reasonable cost, determined by the department, a photograph of any registered sexual offender which the department maintains in its central sexual offender registry. The department shall respond to requests for photographs within ten (10) working days of receipt.

(4) Fees received by the department pursuant to this section shall be deposited in the department's miscellaneous revenue fund and used to support the operation of the central registry. Fees received by the sheriff pursuant to this section shall be used to defray the cost of sexual offender registration.

(5) The department shall include a cautionary statement relating to completeness, accuracy and use of registry information when releasing information to the public or noncriminal justice agencies as well as a statement concerning the penalties provided in section 18-8326, Idaho Code, for misuse of registry information.

(6) Information released pursuant to this section may be used only for the protection of the public.

(7) Further dissemination of registry information by any person or entity shall include the cautionary statements required in subsection (5) of this section.

18-8324. DISSEMINATION OF REGISTRY INFORMATION. (1) The department shall disseminate any registration information collected under this chapter, including change of address notification, to criminal justice agencies through the telecommunications system established in section 19-5202, Idaho Code. Registry information provided under this section shall be used only for the administration of criminal justice or for the protection of the public as permitted by this chapter.

(2) The department shall provide quarterly to the superintendent of public instruction and to the director of the department of health and welfare a list of all sexual offenders required to register with the central registry together with the address, date of birth and crime of conviction for each offender listed. The superintendent may further distribute the list or portions thereof to school districts or to schools.

(3) The department shall release quarterly to the public a list of offenders thirty (30) days or more delinquent in maintaining registration or address verification. Offenders subject to being listed include those who have failed:

(a) To register with a sheriff after initial registration under section 18-8307, Idaho Code;

(b) To register annually as required in section 18-8307, Idaho Code; and

(c) To respond to an address verification notice as required in section 18-8308, Idaho Code.

(4) The department shall include a cautionary statement relating to completeness, accuracy and use of registry information when releasing information to the public or noncriminal justice agencies as well as a statement concerning the penalties provided in section 18-8326, Idaho Code, for misuse of registry information.

(5) Information released pursuant to this section may be used

only for the protection of the public.

(6) Further dissemination of registry information by any person or entity shall include the cautionary statements required in subsection (4) of this section.

18-8325. EXEMPTION FROM CIVIL LIABILITY. (1) No person or governmental entity, other than those specifically charged in this chapter with a duty to collect information under this chapter regarding registered sexual offenders, has a duty to inquire, investigate or disclose any information regarding registered sexual offenders.

(2) No person or governmental entity, other than those specifically charged in this chapter with an affirmative duty to provide public access to information regarding registered sexual offenders, shall be held liable for any failure to disclose any information regarding registered sexual offenders to any other person or entity.

(3) Every person or governmental entity who, acting without malice or criminal intent, obtains or disseminates information under this chapter shall be immune from civil liability for any damages claimed as a result of such disclosures made or received.

18-8326. PENALTIES FOR VIGILANTISM OR OTHER MISUSE OF INFORMATION OBTAINED UNDER THIS CHAPTER. Any person who uses information obtained pursuant to this chapter to commit a crime or to cause physical harm to any person or damage to property shall be guilty of a misdemeanor and, in addition to any other punishment, be subject to imprisonment in the county jail for a period not to exceed one (1) year, or by a fine not to exceed one thousand dollars ($1,000) or both.

SECTION 3. That Chapter 8, Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 7-805, Idaho Code, and to read as follows:

7-805. RESTRICTIONS ON NAME CHANGES FOR CONVICTED SEXUAL OFFENDERS -- NOTIFICATION OF NAME CHANGES OF CONVICTED SEXUAL OFFENDERS. (1) No person shall apply for a change of name with the intent or purpose of avoiding registration as a convicted sexual offender pursuant to chapter 83, title 18, Idaho Code. No name change shall be granted to any person if the name change would have the effect of relieving the person of the duty to register as a convicted sexual offender under chapter 83, title 18, Idaho Code, or under the provisions of similar laws enacted by another state.

(2) The court granting a name change to any individual required to register as a convicted sexual offender pursuant to the provisions of chapter 83, title 18, Idaho Code, shall provide notice of the name change to the Idaho department of law enforcement, central sexual offender registry. This notice shall include the offender's name prior to change, new name, social security number, date of birth and last known address.

SECTION 4. That Section 9-340, Idaho Code, be, and the same is hereby amended to read as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Exemption under state or federal law or court rule.

(a) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(b) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the Idaho supreme court, but only to the extent that confidentiality is provided under such rules, and any drafts or other working memoranda related to judicial decision-making, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(2) Law enforcement records, investigatory records of agencies, worker's compensation.

(a) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(b) Juvenile records of a person maintained pursuant to chapter 5, title 20, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the juvenile. If the juvenile is fourteen (14) years or older and is adjudicated guilty of an offense which would be a felony if committed by an adult, the name, offense of which the juvenile was adjudicated and disposition of the court shall be subject to disclosure. Additionally, facts contained in any records of a juvenile maintained under chapter 5, title 20, Idaho Code, shall be furnished upon request to any school district where the juvenile is enrolled or is seeking enrollment.

(c) Records of the department of correction or the commission of pardons and parole to the extent that disclosure thereof would interfere with the secure and orderly conduct of their operations, or the rehabilitation of any person in the custody of the department of correction or on parole, or would substantially prejudice or prevent the carrying out of the functions of the department of correction or the commission of pardons and parole if the public interest in confidentiality clearly outweighs the public interest in disclosure. Records exempt from disclosure shall include, but not be limited to, those containing the names and addresses of witnesses or victims or those containing information identifying victims or witnesses.

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

senate judiciary and rules committee, and the chairman of the house of representatives judiciary, rules and administration committee, for all lawful purposes.

(e) Records of the sheriff or department of law enforcement received or maintained pursuant to section 18-3302, Idaho Code, relating to an applicant or licensee.

(~~e~~f) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

(~~f~~g) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(~~g~~h) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(~~h~~i) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(i) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(ii) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(iii) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(iv) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction.

(3) Privacy, personnel records, personal information, health records, professional discipline.

(a) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(b) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(c) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(d) Records of a personal nature as follows:

(i) Records of personal debt filed with a public agency pursuant to law;

(ii) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(iii) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

(iv) Records, with regard to the ownership of, or security interests in, registered public obligations;

(v) Vital statistics records.~~;~~

~~(vi) Except as provided in this subsection, all information provided to a law enforcement agency for sex offender registration pursuant to the provisions of section 18-8306, Idaho Code:~~

~~1. Such information shall be available upon request to a law enforcement agency; and~~

~~2.--The-information-provided-pursuant-to-the--provisions of--subsections--(1)--and--(3)-of-section-18-8306,-Idaho Code,-shall-be-provided--to---any--person--upon--written request.-Such-written-request-shall-include-the-name-and either--date--of-birth-or-address-of-the-person-for-whom the-information-is-requested.~~

(e) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(f) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

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

(h) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency pursuant to a statutory requirement for licensing, certification, permit or bonding.

(i) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

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

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

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

(m) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt

from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(4) Trade secrets, production records, appraisals, bids, proprietary information.

(a) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(i) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(ii) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(b) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

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

(d) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(e) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(f) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(g) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(h) Financial statements and business information and reports submitted by a legal entity to a port district organized under title 70, Idaho Code, in connection with a business agreement, or with a development proposal or with a financing application for any industrial, manufacturing, or other business activity within a port district.

(i) Names and addresses of seed companies, seed crop growers,

seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided, however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

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

(k) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency.

(l) Records of laboratory test results provided by or retained by the department of agriculture's quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(m) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

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

(o) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

(i) The original data including, but not limited to, num-

bers, text, voice, graphics and images;

(ii) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(iii) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

(5) Archaeological, endangered species, libraries, legislative, test keys, miscellaneous exemptions.

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

(b) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(c) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(d) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(e) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(f) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative services office by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

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

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

SECTION 5. That Section 67-2345, Idaho Code, be, and the same is hereby amended to read as follows:

67-2345. EXECUTIVE SESSIONS -- WHEN AUTHORIZED. (1) Nothing contained in this act shall be construed to prevent, upon a two-thirds (2/3) vote recorded in the minutes of the meeting by individual vote, a governing body of a public agency from holding an executive session during any meeting, after the presiding officer has identified the authorization under this act for the holding of such executive session. An executive session may be held:

(a) To consider hiring a public officer, employee, staff member or individual agent. This paragraph does not apply to filling a vacancy in an elective office;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided in chapter 3, title 9, Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To consider and advise its legal representatives in pending litigation or where there is a general public awareness of probable litigation;

(g) By the commission of pardons and parole, as provided by law;

(h) By the sexual offender classification board, as provided by chapter 83, title 18, Idaho Code.

(2) Labor negotiations may be conducted in executive session if either side requests closed meetings. Notwithstanding the provisions of section 67-2343, Idaho Code, subsequent sessions of the negotiations may continue without further public notice.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

Approved March 27, 1998.

CHAPTER 412
(S.B. No. 1298)

AN ACT

RELATING TO JUVENILE SEX OFFENDER REGISTRATION; AMENDING TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 84, TITLE 18, IDAHO CODE, TO ESTABLISH THE JUVENILE SEX OFFENDER REGISTRATION NOTIFICATION AND COMMUNITY RIGHT-TO-KNOW ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE FINDINGS OF THE LEGISLATURE, TO DEFINE JUVENILE SEX OFFENDER, TO PROVIDE FOR A JUVENILE SEX OFFENDER REGISTRY, TO PROVIDE FOR NOTIFICATION OF DUTY TO REGISTER, TO PROVIDE FOR NOTIFICATION OF DUTY TO REGISTER PRIOR TO RELEASE, TO PROVIDE FOR ANNUAL REGISTRATION, TO PROVIDE THE LIST TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION, TO PROVIDE PENALTIES FOR FAILURE TO REGISTER, TO PROVIDE FOR TRANSFER TO THE ADULT SEX OFFENDER REGISTRY AND TO PRO-

VIDE FOR RELEASE FROM REGISTRATION, TO PROVIDE FOR TREATMENT OF JUVENILES CONVICTED AS ADULTS, TO PROVIDE FOR EXEMPTIONS FROM CIVIL LIABILITY FOR RELEASE OR NONDISCLOSURE OF INFORMATION AND TO PROVIDE PENALTIES FOR VIGILANTISM OR OTHER MISUSE OF INFORMATION OBTAINED UNDER THE ACT.

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

CHAPTER 84
JUVENILE SEX OFFENDER REGISTRATION NOTIFICATION AND COMMUNITY RIGHT-TO-KNOW ACT

18-8401. SHORT TITLE. This chapter shall be known and may be cited as the "Juvenile Sex Offender Registration Notification and Community Right-to-Know Act."

18-8402. FINDINGS. The legislature finds that juvenile sex offenders present a significant risk of reoffense and that efforts of law enforcement agencies to protect communities, conduct investigations and quickly apprehend offenders who commit sex offenses are impaired by the lack of information available about individuals who have been convicted or adjudicated delinquent of sex offenses who live within their jurisdiction. The legislature further finds that providing public access to certain information about sex offenders assists parents in the protection of their children. Further, such access provides a means for organizations that work with youth or other vulnerable populations to prevent juvenile sex offenders from threatening those served by the organizations. Finally, public access assists the public to be observant of convicted juvenile sex offenders in order to prevent the offenders from recommitting sex crimes. Therefore, this state's policy is to assist efforts of local law enforcement agencies to protect communities by requiring juvenile sex offenders to register with local law enforcement agencies and to make certain information about juvenile sex offenders available to the public as provided in this chapter.

18-8403. DEFINITIONS. As used in this chapter, "juvenile sex offender" means a person who was between fourteen (14) years of age to eighteen (18) years of age at the time the qualifying sex offense was committed and who:

(1) On or after July 1, 1998, was adjudicated delinquent under the juvenile corrections act for an action that would be an offense enumerated in section 18-8304, Idaho Code, if committed by an adult; or

(2) As of July 1, 1998, is serving formal probation, a period of detention, or commitment to the department of juvenile corrections as the result of sentencing imposed under section 20-520, Idaho Code, for an action that would be an offense enumerated in section 18-8304, Idaho Code, if committed by an adult; or

(3) Was adjudicated delinquent in another state for an action that is substantially equivalent to the offenses enumerated in section 18-8304, Idaho Code, and is subject on or after July 1, 1998, to Idaho court jurisdiction under the interstate compact on juveniles; or

(4) Is required to register in another state for having committed a sex offense in that state regardless of the date of the offense or its adjudication.

18-8404. JUVENILE SEX OFFENDER REGISTRY. The department of law enforcement shall establish and maintain within the central sex offender registry a separate registry of juvenile sex offenders. The registry shall include fingerprints, photographs, and information collected from submitted forms and other communications relating to notice of duty to register, sex offender registration, and notice of address change. Information in the registry of juvenile sex offenders is subject to release to criminal justice agencies pursuant to section 18-8305, Idaho Code, and to the public pursuant to section 18-8323, Idaho Code.

18-8405. NOTIFICATION OF DUTY TO REGISTER -- PROBATION. With respect to a juvenile sex offender sentenced to probation without a period of detention, the court shall provide at the time of sentencing written notification of the duty to register. The written notification shall be a form provided by the department of law enforcement and shall be signed by the juvenile and the parents or guardian of the juvenile. One (1) copy shall be retained by the court, one (1) copy shall be provided to the offender, and one (1) copy shall be submitted within three (3) working days to the central registry.

18-8406. NOTIFICATION OF DUTY TO REGISTER -- PRIOR TO RELEASE. With respect to a juvenile sex offender sentenced to a period of detention, the county shall provide, prior to release, written notification of the duty to register. With respect to a juvenile sex offender committed to the custody of the department of juvenile corrections, the department shall provide, prior to release, written notification of the duty to register. The written notification shall be a form provided by the department of law enforcement and shall be signed by the juvenile and the parents or guardian of the juvenile. One (1) copy shall be retained by the department of juvenile corrections, one (1) copy shall be provided to the offender, and one (1) copy shall be submitted within three (3) working days to the central registry.

18-8407. ANNUAL REGISTRATION. A juvenile sex offender, other than one serving a period of detention or committed to the department of juvenile corrections, shall be subject to annual registration and change of name or address notification pursuant to sections 18-8307 and 18-8309, Idaho Code.

18-8408. PROVIDING LIST TO SUPERINTENDENT OF PUBLIC INSTRUCTION. The department of law enforcement shall provide to the superintendent of public instruction, quarterly and on request, a list of registered juvenile sex offenders in the state. The superintendent of public instruction subsequently shall notify a school district or private school regarding the enrollment of a registered juvenile sex offender. The superintendent shall also notify the district or school of the offender's probationary status or treatment status, if known.

18-8409. FAILURE TO REGISTER, PENALTIES. (1) A juvenile sex offender who fails to register or provide notification of a change of name or address is guilty of a misdemeanor.

(2) A parent or guardian of a juvenile sex offender commits the misdemeanor offense of failure to supervise a child if the offender fails to register or provide notification of a change of name or address as required by this section. A person convicted of this offense is subject to a fine of not more than one thousand dollars ($1,000).

18-8410. TRANSFER TO ADULT REGISTRY. When a registered juvenile sex offender reaches twenty-one (21) years of age, the prosecutor may petition the court to transfer the offender to the adult registry, subject to the registration and notification provisions of chapter 83, title 18, Idaho Code. If the court determines at a hearing that the juvenile sex offender is likely to pose a threat to the safety of others, the court shall order that the delinquent act be deemed an adult criminal conviction for the purpose of registration, notification, and public information access pursuant to chapter 83, title 18, Idaho Code. If no petition is filed, or if the court determines the juvenile is not likely to pose a threat to the safety of others, the juvenile shall be deleted from the registry.

18-8411. JUVENILES CONVICTED AS ADULTS. The provisions of this section do not apply to a juvenile who is subject to registration and notification requirements of chapter 83, title 18, Idaho Code, because the offender was convicted of a sex offense as an adult.

18-8412. EXEMPTION FROM CIVIL LIABILITY. (1) No person or governmental entity, other than those specifically charged in this chapter with a duty to collect information under this chapter regarding registered sex offenders, has a duty to inquire, investigate or disclose any information regarding registered sex offenders.

(2) No person or governmental entity, other than those specifically charged in this chapter with an affirmative duty to provide public access to information regarding registered sex offenders, shall be held liable for any failure to disclose any information regarding registered sex offenders to any other person or entity.

(3) Every person or governmental entity who, acting without malice or criminal intent, obtains or disseminates information under this chapter shall be immune from civil liability for any damages claimed as a result of such disclosures made or received.

18-8413. PENALTIES FOR VIGILANTISM OR OTHER MISUSE OF INFORMATION OBTAINED UNDER THIS CHAPTER. Any person who uses information obtained pursuant to this chapter to commit a crime or to cause physical harm to any person or damage to property shall be guilty of a misdemeanor and, in addition to any other punishment, shall be subject to imprisonment in the county jail for a period not to exceed one (1) year, or by a fine not to exceed one thousand dollars ($1,000) or both.

Approved March 27, 1998.

CHAPTER 413
(S.B. No. 1419, As Amended, As Amended in the House)

AN ACT

RELATING TO LICENSED PROFESSIONAL COUNSELORS; AMENDING CHAPTER 34, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3400, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE INTENT; AMENDING SECTION 54-3401, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 54-3402, IDAHO CODE, TO CLARIFY REQUIREMENTS FOR LICENSURE AND TO SPECIFY EXEMPTIONS; AMENDING CHAPTER 34, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3405B, IDAHO CODE, TO PROVIDE FOR CONDITIONAL LICENSURE; AMENDING SECTION 54-3408, IDAHO CODE, TO SPECIFY ADDITIONAL PROHIBITED ACTS; AMENDING CHAPTER 34, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3410A, IDAHO CODE, TO SPECIFY CONDITIONS GOVERNING CONFIDENTIAL COMMUNICATIONS; AND AMENDING CHAPTER 34, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3410B, IDAHO CODE, TO REQUIRE INFORMATION DISCLOSURE TO CLIENTS.

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

SECTION 1. That Chapter 34, 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 54-3400, Idaho Code, and to read as follows:

54-3400. LEGISLATIVE FINDINGS. The practice of counseling in the state of Idaho is hereby declared to affect the public health, safety and welfare, and to be subject to regulation and control in the public interest to protect the public from the unprofessional, improper, unauthorized and unqualified practice of counseling, and from unprofessional conduct by persons licensed to practice counseling. This chapter should be construed liberally to carry out these objectives and purposes.

SECTION 2. That Section 54-3401, Idaho Code, be, and the same is hereby amended to read as follows:

54-3401. DEFINITIONS. As used in this chapter:

(1) ~~"Licensed professional counselor" means any person who holds himself/herself out to the public by any title or description of services incorporating the words "licensed professional counselor" or "licensed counselor."~~

~~(2)~~ "Board" means the Idaho state counselor licensing board.

(2) "Bureau chief" means the chief of the bureau of occupational licenses of the state of Idaho.

(3) "Department" means the department of self-governing agencies of the state of Idaho.

(4) ~~"Bureau chief" means the chief of the bureau of occupational licenses of the state of Idaho~~ "Licensed professional counselor" means any person licensed under this chapter to practice professional counseling as defined in this chapter.

(5) "Practice of professional counseling" means the application of mental health, psychological, and human development principles in order to facilitate human development and adjustment throughout the life span; prevent, assess, and treat mental, emotional or behavioral disorders and associated distresses which interfere with mental health; conduct assessments for the purpose of establishing treatment goals and objectives; and plan, implement and evaluate treatment plans using counseling treatment interventions. "Counseling treatment interventions" means the application of cognitive, affective, behavioral, and systemic counseling strategies, which include principles of development, wellness and pathology that reflect a pluralistic society. Such interventions are specifically implemented in the context of a professional counseling relationship.

The practice of professional counseling includes, but is not limited to:

(a) Individual, group, marriage and family counseling and therapy;

(b) Assessment;

(c) Crisis intervention;

(d) Treatment of persons with mental and emotional disorders;

(e) Guidance and consulting to facilitate normal growth and development, including educational and career development;

(f) Utilization of functional assessment and counseling for persons requesting assistance in adjustment to a disability or handicapping condition;

(g) Consulting;

(h) Research; and

(i) Referral.

The use of specific methods, techniques, or modalities within the practice of professional counseling is restricted to professional counselors appropriately trained in the use of such methods, techniques or modalities.

SECTION 3. That Section 54-3402, Idaho Code, be, and the same is hereby amended to read as follows:

54-3402. LICENSE REQUIRED -- EXEMPTIONS. It shall be unlawful for any person to ~~represent himself/herself to be a licensed professional counselor or licensed counselor unless he/she shall first obtain a license pursuant to this chapter~~ engage in any of the following acts:

(1) To practice professional counseling for compensation without first having complied with the provisions of this chapter and without a valid license as required by this chapter.

(2) To represent himself/herself to be a licensed professional counselor or licensed counselor unless he/she shall first obtain a license pursuant to this chapter.

(3) To make use of any title, words, letters or abbreviations which may reasonably be confused with a designation provided by this chapter.

(4) To materially refuse to furnish the board information or records required or requested pursuant to this chapter or pursuant to an investigation commenced pursuant to this chapter.

Nothing in this chapter~~, however,~~ shall be construed to ~~limit or~~

~~prevent--the--practice--of-an-individual's-profession-or-to-restrict-a person-from-doing-counseling-provided-that-the--person--or--individual does--not--hold-himself/herself-out-to-the-public-by-title-or-description-as-being-a-licensed-counselor-or-a--licensed--professional--counselor.~~

~~Nothing-in-this-chapter-shall-be-construed-to-authorize-a-licensed professional--counselor-to-perform-those-specific-functions-and-duties specifically-delegated-by-law-to-those-persons-licensed-as--physicians~~ apply to the activities and services of licensed or credentialed members of other professions, such as physicians, psychologists, registered nurses, social workers, drug and alcohol counselors, or attorneys performing duties consistent with the laws of this state, their training, and any code of ethics of their professions, provided they do not represent themselves by any title or practice description in the manner prescribed in section 54-3401, Idaho Code.

Nothing in this chapter shall be construed to apply to the activities, services and use of an official title on the part of a person certified by the state to render counseling or counseling-related services, provided such persons are performing these activities within the scope of their employment, including school and vocational counselors.

Nothing in this chapter shall be construed to apply to the activities and services of a student, intern or trainee pursuing a course of study in counseling in a regionally accredited institution of higher education or training institution, if these activities are performed under supervision and constitute a part of the supervised course of study provided, that such person be designated, for example, a "counselor intern."

Nothing in this chapter shall be construed to apply to a nonresident whose counseling activities and services are rendered not more than ten (10) days during any calendar year, provided that such a person is duly authorized to perform such activities and services under the laws of the state or country of that person's residence.

Nothing in this chapter shall be construed to apply to the activities and services of any religious denomination or sect or faith-based counseling of any kind.

Nothing in this chapter shall be construed to apply to the activities and descriptions of persons offering volunteer or professional services for public and private nonprofit organizations or agencies for whom the services are rendered.

SECTION 4. That Chapter 34, 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 54-3405B, Idaho Code, and to read as follows:

54-3405B. CONDITIONAL LICENSE. Any individual who engages in the practice of counseling as described in this chapter and who can demonstrate an established practice of three (3) or more years may make application for a conditional counseling license provided they do not violate the prohibitions of section 54-3408, Idaho Code. The applicant shall have until the year 2002 to complete the requirements of a licensed professional counselor. The application shall be on a form

prescribed by the board and shall be accompanied by a fee to be determined by the board by rule. An applicant for a conditional license shall:

(1) Possess a bachelor's degree in a counseling field from an accredited university or college offering an undergraduate program in counseling; and

(2) Follow the ethical standards of a licensed professional counselor.

A renewal fee to be determined by the board by rule shall be required annually.

SECTION 5. That Section 54-3408, Idaho Code, be, and the same is hereby amended to read as follows:

54-3408. CERTAIN ACTS PROHIBITED. The following acts shall be unlawful and punishable as a misdemeanor:

(1) The violation of any of the provisions of this chapter and any ~~regulations~~ rules promulgated pursuant thereto;

(2) A person representing himself to be a licensed counselor or licensed professional counselor without having first complied with the provisions of this chapter;

(3) A person who shall practice or attempt to offer to practice professional counseling, as defined in this chapter, without having at the time of so doing, a valid, unexpired, unrevoked and unsuspended license or conditional license issued under this chapter or the laws of Idaho or any other state governing mental health professionals;

(4) A license or conditional license will not be allowed an individual whose license, certification, or registration has been revoked or suspended in this or any other state and in this or any other related field. Such an individual may not be licensed under this chapter unless the period of revocation or suspension has been completed and the board has conducted a competency review and determined that an acceptable degree of rehabilitation has been accomplished.

SECTION 6. That Chapter 34, 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 54-3410A, Idaho Code, and to read as follows:

54-3410A. CONFIDENTIAL COMMUNICATION. Confidentiality of communication between licensed counselor and client shall be privileged from disclosure as provided in section 9-203, Idaho Code, with the exception of the board of review provided in section 54-3404, Idaho Code.

SECTION 7. That Chapter 34, 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 54-3410B, Idaho Code, and to read as follows:

54-3410B. INFORMATION DISCLOSURE TO CLIENTS. Persons licensed under this chapter shall provide clients at the beginning of treatment with accurate disclosure information concerning their practice, including the right of clients to refuse treatment, the responsibility

of clients for choosing the provider and treatment modality, and the extent of confidentiality. The disclosure information provided by the counselor, the receipt of which shall be acknowledged in writing by the counselor and client, shall include any relevant education and training, the therapeutic orientation of the practice, modalities or treatment utilized, and all financial requirements. The disclosure information shall include a statement that licensure of an individual under this chapter does not imply endorsement by the counselor licensing board nor effectiveness of treatment.

Approved March 27, 1998.

CHAPTER 414
(S.B. No. 1426)

AN ACT

RELATING TO INCOME TAX TREATMENT OF CAPITAL GAINS; AMENDING SECTION 63-3022H, IDAHO CODE, TO CHANGE THE HOLDING PERIOD REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

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

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

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

(a) Real property held at least ~~five (5) years~~ eighteen (18) months;

(b) Tangible personal property used in Idaho for at least twelve (12) months by a revenue-producing enterprise;

(c) Cattle or horses held for breeding, draft, dairy or sporting purposes for at least twenty-four (24) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the internal revenue code) for the taxable year is from farming or ranching operations in Idaho~~.~~;

(d) Breeding livestock other than cattle or horses held at least twelve (12) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the internal revenue

code) for the taxable year is from farming or ranching operations in Idaho~~.~~;

(e) Timber grown in Idaho and held at least twenty-four (24) months~~.~~;

(f) In determining the period for which property subject to this section has been held by a taxpayer, the provisions of section 1223 of the internal revenue code shall apply, except that when the holding period includes any period during which the taxpayer held property other than the property sold, all property held during the holding period must qualify under this section.

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

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

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

(7) As used in this section "revenue-producing enterprise" means:

(a) The production, assembly, fabrication, manufacture, or processing of any agricultural, mineral or manufactured product;

(b) The storage, warehousing, distribution, or sale at wholesale of any products of agriculture, mining or manufacturing;

(c) The feeding of livestock at a feedlot;

(d) The operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1998.

Approved March 27, 1998.

CHAPTER 415
(S.B. No. 1478, As Amended)

AN ACT

RELATING TO COUNTYWIDE HIGHWAY DISTRICTS; AMENDING CHAPTER 17, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-1701, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT; AMENDING SECTION 40-1701, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE THE PROCEDURE FOR AN ELECTION TO ADOPT A METHOD OF SECONDARY HIGHWAY ADMINISTRATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 40-1702, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE A CORRECT REF-

ERENCE, AND TO INCREASE THE TIME PERIOD BETWEEN ELECTIONS; AMENDING SECTION 40-1703, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THAT THE NEW DISTRICT SHALL BE ECONOMICALLY WORKABLE; AMENDING SECTION 40-1704, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR TRANSITION FROM EXISTING HIGHWAY COMMISSIONERS, TO PROVIDE THAT COUNTY COMMISSIONERS, CITY MAYORS AND CITY COUNCIL MEMBERS SHALL NOT BE ELIGIBLE TO HOLD OFFICE AS A HIGHWAY DISTRICT COMMISSIONER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 40-1705, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PROCEDURES FOR ADJUSTMENT OF HIGHWAY DISTRICT BORDERS AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTIONS 40-1706, 40-1707, 40-1708 AND 40-1710, IDAHO CODE; AMENDING SECTION 40-1709, IDAHO CODE, TO PROVIDE FOR INVENTORY, FINANCIAL STATEMENT AND DISPOSITION OF PROPERTY AND OBLIGATIONS OF AFFECTED COUNTY ROAD DEPARTMENTS; AMENDING SECTION 40-1712, IDAHO CODE, TO PROVIDE A CORRECT CITATION AND TO REVISE MEMBERSHIP ON HIGHWAY STUDY COMMISSIONS; AMENDING SECTION 40-1713, IDAHO CODE, TO PROVIDE OPTIONS FOR ADMINISTRATION OF A COUNTY'S SECONDARY HIGHWAYS, TO INCREASE THE TIME A HIGHWAY STUDY COMMISSION MAY MEET AFTER ELECTION AND TO REVISE PROCEDURES; AND AMENDING CHAPTER 17, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-1714, IDAHO CODE, TO PROVIDE PRORATION OF EXPENSES OF THE ELECTION AND TO PROVIDE FOR APPEALS.

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

SECTION 1. That Chapter 17, 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 40-1701, Idaho Code, and to read as follows:

40-1701. LEGISLATIVE INTENT. It is the intent of the legislature in amending this chapter to declare that it is necessary in the further promotion, regulation, control and administration of the secondary highways within the state of Idaho for the electorate to adopt a secondary highway system at the county level and for the elimination of impractical and uneconomical units and still maintain the element of home rule and administration of secondary highways within the various county and highway district systems exclusive of the state highway system.

SECTION 2. That Section 40-1701, Idaho Code, be, and the same is hereby amended to read as follows:

40-170~~1~~2. ~~COUNTY-WIDE~~ COUNTYWIDE ELECTION TO ADOPT METHOD OF SECONDARY HIGHWAY ADMINISTRATION -- PROCEDURE. (1) In any county where there is a petition for ~~vote under this chapter, the commissioners shall refer by popular vote to the entire electorate of the county the question of administration, allowing the electorate at an election to adopt one (1) of the following systems for administration:~~

~~(a) To establish a county-wide highway system for the administration of the secondary highway system of the entire county, exclusive of those within cities, by county commissioners;~~

~~(b) For the formation of a county-wide highway district, exclu-~~

~~sive--of--cities;--independent-of-the-administration-of-the-county commissioners;~~

~~(c)--For-the-division-of-the-county-or-area-into-highway-districts covering-the-entire-county-secondary-highway--system--which--could include-parts-of-adjacent-counties;~~

~~(d)--For-the-continued-existence-of-the-present-method-of-administration--of-the-secondary-highway-system-in-the-county~~ an election to adopt a new method of administration of the secondary highways in the county, the procedure outlined in this chapter shall be followed.

(2) ~~In-any-county;~~ The petitions signed by five ~~per-cent~~ percent (5%) of the qualified voters or twenty-five (25) persons, whichever is greater, of each highway district and the area served by a county road department, where applicable, within the county may be filed with the county clerk and upon the commissioners finding that the petitions have been properly signed and filed, cause the formation of a local highway study commission as provided in section 40-1712, Idaho Code, prior to submitting the matter to vote of the entire county ~~by-a-special~~ at the next general election, providing that the next general election is not less than ~~ninety~~ one hundred eighty (~~9~~180) days from the filing of the petitions. All of the laws of the state relating to holding of elections at the county level shall apply to the holding of ~~a-special~~ the election, except as may be specifically modified in this chapter. In addition to the other requirements of law, the notice of election shall notify the electors of the issues to be voted upon at the election, and publication of a notice shall be in accordance with the provisions of section 40-206, Idaho Code. Public hearings within the county shall be held, as deemed advisable, by the ~~commissioners~~ highway study commission.

(3) The election shall be conducted in such a manner that the vote is canvassed separately in each of the existing highway districts and the area served by a county road department, where applicable.

(4) The commissioners in the notice of election shall designate polling places in each precinct and/or district, as appropriate, to adequately provide for the vote at the election. Every qualified elector of the ~~precinct--who-was-registered-to-vote-at-the-last-general election~~ county may vote.

(~~4~~5) The vote shall be canvassed by the commissioners within five (5) days of the election.

~~(5)--Upon-any-one-of-the-four-(4)-options-receiving-a-majority--of the-valid-votes-cast-at-the-election;-that-option-shall-be-declared-to have-been-selected;~~

~~(6)--In--the--event-that-no-one-of-the-four-(4)-options-voted-upon receives-a-majority-vote;-then-the-commissioners-shall-provide-a--run-off--election-to-be-held-within-the-next-thirty-(30)-days-to-determine which-of-the-two-(2)-optional-methods-receiving-the-highest-number--of votes-shall-be-adopted;~~

SECTION 3. That Section 40-1702, Idaho Code, be, and the same is hereby amended to read as follows:

40-170~~2~~3. SUBSEQUENT ELECTIONS. Another election may be similarly called and held by the submission of petitions as provided by section

40-170~~1~~2, Idaho Code, and any subsequent election shall not be held more often than ~~two~~ six (~~2~~6) years after the holding of any election submitting this question to the vote of the county.

SECTION 4. That Section 40-1703, Idaho Code, be, and the same is hereby amended to read as follows:

40-170~~3~~4. DISTRICTS TO BE ECONOMICALLY WORKABLE. Highway districts organized or consolidated from existing highway districts and areas served by a county road department, where applicable, under the provisions of this chapter shall consist of areas having sufficient mileage, equipment, resources, valuation and budget to be considered economically workable. The county commissioners shall organize the district(s) with regard to geographical locations for the most efficient operation.

SECTION 5. That Section 40-1704, Idaho Code, be, and the same is hereby amended to read as follows:

40-170~~4~~5. ORGANIZATION OF ~~COUNTY-WIDE~~ COUNTYWIDE HIGHWAY DISTRICTS -- HIGHWAY DISTRICT COMMISSIONERS -- APPOINTMENT -- TERMS -- ELECTION. (1) ~~County-wide~~ Countywide highway districts may be organized under the laws applicable to highway districts and for county highway districts, new highway districts, consolidated or enlarged highway districts, and the number of highway commissioners to be elected shall be three (3). The formation of new districts shall be effected by the commissioners of the county so affected within sixty (60) days of the reorganization election, and upon the determination that a county highway system shall be reorganized as a ~~county-wide~~ countywide highway district, new highway districts, consolidation, enlargement or other modification, the original highway district commissioners shall, within seventy (70) days of the election, be appointed by the governor. A new highway district shall be divided by the commissioners into three (3) subdistricts as nearly equal in mileage, market value for assessment purposes, and population as practicable under the circumstances, for the purpose of determining each highway commissioner's district, and each commissioner for a highway district shall represent and be elected or appointed from the district in which he resides.

(2) Upon appointment, qualification and acceptance of duties as highway commissioners, those originally appointed shall, by lot, determine two (2) of the original appointed highway commissioners who shall serve for terms of original appointment for two (2) years, or until the next regular election for highway commissioners. The remaining highway commissioner shall serve for a period of four (4) years, or until the next succeeding election for highway commissioners. Thereafter, the highway commissioners elected shall be elected for four (4) year terms as their terms expire, thus providing a continuation in office of highway district commissioners, and providing for the staggered election of the commissioners in subsequent elections.

(3) Laws applicable to the election of highway commissioners shall apply to the conduct of highway district elections throughout the county, and the election for highway commissioners shall be on a

nonpartisan basis.

(4) Where a ~~county-wide~~ countywide highway district, new highway district, or consolidated or enlarged district results from an election under this chapter, it shall be the duty of the governor, in the appointment of the original highway commissioners for the county, where there shall have been in existence at the time of the creation of ~~the county-wide highway district,~~ any highway districts within the limits of the county to appoint whenever practicable, ~~one (1) of~~ the existing highway commissioners as they shall qualify by residence in the territorial limits of the districts of the ~~county-wide~~ newly created highway district as a highway commissioner of the ~~county-wide~~ newly created highway district system. County commissioners, city mayors and city council members shall not be eligible to hold office as a highway district commissioner.

SECTION 6. That Section 40-1705, Idaho Code, be, and the same is hereby amended to read as follows:

40-1705~~6~~. ADJUSTMENT OF HIGHWAY DISTRICT BORDERS -- NOTICE -- HEARING -- DECISION OF COMMISSIONERS -- APPEAL. In areas where more than one (1) highway district exists and the highway districts were organized under the provisions of this chapter, the commissioners shall have the duty and obligation from time to time as shall be practical and for the best interests of the ~~county-wide~~ countywide administration of the secondary highway systems, to adjust the borders of the highway districts coexisting in the county as shall most equitably and economically permit the administration, operation and construction of the secondary highway system within the county. Notice of a proposal to change the boundaries of the highway districts within the county shall be given by the commissioners through the county clerk to the districts affected and notice shall be published in accordance with the provisions of section 40-206, Idaho Code. At the hearing any person objecting may be heard in opposition, and upon the closing of the hearing, the commissioners shall within ten (10) days after the hearing, notify the districts affected of their decision, and any district aggrieved by the decision shall have the right through its highway commissioners to appeal the decision directly to the district court of the county in which the district lies. Matters referred to the district court on appeal shall be submitted by petition for hearing within twenty (20) days of the announcement of the decision of the commissioners and the matter disposed of by the district court by reversal or approval. Failure to diligently prosecute the matter before the district court shall justify the district court in dismissing the appeal without hearing.

SECTION 7. That Sections 40-1706, 40-1707, 40-1708 and 40-1710, Idaho Code, be, and the same are hereby repealed.

SECTION 8. That Section 40-1709, Idaho Code, be, and the same is hereby amended to read as follows:

40-1709. INVENTORY AND FINANCIAL STATEMENT OF DISSOLVED DISTRICT -- DISPOSITION OF PROPERTY AND OBLIGATIONS OF DISSOLVED DISTRICT AND

CHAPTER 416
(H.B. No. 676)

AN ACT

RELATING TO THE COURT INTERLOCK FUND; AMENDING SECTION 18-8010, IDAHO CODE, TO PROVIDE THAT MONEYS IN THE FUND MAY BE USED FOR ALCOHOL OR DRUG ABUSE RELATED PROBATION, TREATMENT OR PREVENTION PROGRAMS FOR ADULTS OR JUVENILES.

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~~ alcohol or drug abuse related probation, treatment or prevention 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~~ adults or juveniles.

Approved March 27, 1998.

CHAPTER 417
(H.B. No. 747, As Amended)

AN ACT

RELATING TO AGRICULTURAL SOLID WASTE; AMENDING CHAPTER 1, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-110, IDAHO CODE, TO SPECIFY THE AUTHORITY OF THE DIRECTOR TO REGULATE AGRICULTURAL SOLID WASTE, PROMULGATE RULES, ESTABLISH FEES AND ESTABLISH PENALTIES.

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

SECTION 1. That Chapter 1, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-110, Idaho Code, and to read as follows:

22-110. AUTHORITY AND DUTIES OF DIRECTOR CONCERNING AGRICULTURAL WASTE. (1) In addition to other powers and duties, the director of the state department of agriculture shall have authority to regulate agricultural solid waste, agricultural composting and other similar agricultural activities to safeguard and protect animals, man and the environment. The director may promulgate rules in compliance with chapter 52, title 67, Idaho Code, that may be necessary for the efficient enforcement of the provisions of this section. The director may collaborate with any state agency, federal agency or other governmental entity in the development of rules promulgated pursuant to this section.

(2) The director may, by rule, establish a schedule of fees for services performed by the department in the administration of this section and rules promulgated pursuant thereto. Receipts of these fees shall be deposited in the agricultural inspection fund pursuant to section 22-104, Idaho Code, and shall be used, subject to annual appropriation of the legislature, to pay the cost of administering the provisions of this section and rules promulgated pursuant thereto.

(3) Any person violating the provisions of this section or rules promulgated pursuant thereto may be assessed a civil penalty by the department or its duly authorized agent of not more than three thousand dollars ($3,000) for each offense and shall be liable for reasonable attorney's fees. Assessment of a civil penalty may be made in conjunction with any other department administrative action. No civil penalty may be assessed unless the person charged has been given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code. If the department is unable to collect such civil penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court. Any person against whom the department has assessed a civil penalty under this section may, within twenty-eight (28) days of the final agency action making the assessment, seek judicial review of the assessment in accordance with the provisions of chapter 52, title 67, Idaho Code. Moneys collected for violations of this section or rules promulgated thereunder shall be deposited in the state treasury and credited to the agricultural inspection fund. When the director identifies items of noncompliance with the rules promulgated pursuant to this section, appropriate corrective actions will be identified. The director may develop a formal compliance schedule as appropriate to correct deficiencies. The director may, through the formal compliance schedule, allow all or part of the value of assessed civil penalties to be applied toward correction of deficiencies.

Approved March 27, 1998.

CHAPTER 418
(S.B. No. 1446, As Amended in the House)

AN ACT

RELATING TO MINORS' ACCESS TO TOBACCO PRODUCTS; REPEALING CHAPTER 57, TITLE 39, IDAHO CODE; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 57, TITLE 39, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND INTENT, TO DEFINE TERMS, TO PROVIDE FOR POSSESSION, DISTRIBUTION OR USE OF TOBACCO BY A MINOR WITH EXCEPTIONS, TO PROVIDE FOR PERMITS FOR TOBACCO PRODUCT RETAILERS, TO PROHIBIT SALE OR DISTRIBUTION OF TOBACCO PRODUCTS TO MINORS, TO PROVIDE FOR VENDOR ASSISTED SALES, TO PROVIDE FOR OPENED PACKAGES AND SAMPLES, TO PROVIDE CIVIL PENALTIES FOR VIOLATIONS OF A PERMIT, TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS WITHOUT A PERMIT, TO PROVIDE FOR CONDUCT OF ENFORCEMENT ACTIONS, TO PROVIDE FOR FUNDING AND CREATION OF A FUND IN THE STATE TREASURY, TO PROVIDE SEVERABILITY AND TO PROVIDE FOR LOCAL ORDINANCES; PROVIDING AN EFFECTIVE DATE AND AUTHORIZING THE DEPARTMENT OF HEALTH AND WELFARE TO DO CERTAIN ACTS TO ADMINISTER THE PROVISIONS OF THIS ACT.

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

SECTION 1. That Chapter 57, Title 39, Idaho Code, be and the same is hereby repealed.

SECTION 2. That Title 39, Idaho Code, be and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 57, Title 39, Idaho Code, and to read as follows:

CHAPTER 57
PREVENTION OF MINORS' ACCESS TO TOBACCO

39-5701. LEGISLATIVE FINDINGS AND INTENT. The prevention of youth access to tobacco products within the state of Idaho is hereby declared to be a state goal to promote the general health and welfare of Idaho's young people. Twenty-seven percent (27%) of Idaho's youth currently smoke and almost twenty-seven percent (27%) of boys in Idaho use chewing tobacco which is significantly higher than the national average.

Tobacco is the number one killer in Idaho causing more deaths by far than alcohol, illegal drugs, car crashes, homicides, suicides, fires and AIDS combined. According to the center for disease control and prevention (CDC), twenty-four thousand three hundred ninety-four (24,394) children in Idaho currently under eighteen (18) years of age will die prematurely from tobacco-related disease. Tobacco costs the state over two hundred forty million dollars ($240,000,000) each year and is the single most preventable cause of death and disability in Idaho.

Furthermore, tobacco is usually the first drug used by young people who go on to use alcohol and other illegal drugs. A study from the CDC shows that teens who smoke are three (3) times more likely than nonsmokers to use alcohol, eight (8) times more likely to use mari-

juana, and twenty-two (22) times more likely to use cocaine.

Most minors buy their own tobacco products or steal from self-service displays. Additionally, vending machines also create easy access for minors and a report from the CDC shows that even when vending machines are restricted to "adult areas" such as bars, children still succeed in purchasing cigarettes from vending machines.

Therefore, it is this state's policy to prevent the illegal sale, theft and easy access of tobacco products to minors and to prohibit the possession, distribution and use of tobacco products by minors and to punish those who disregard this law.

39-5702. DEFINITIONS. The terms used in this chapter are defined as follows:

(1) "Business" means any company, partnership, firm, sole proprietorship, association, corporation, organization, or other legal entity, or a representative of the foregoing entities.

(2) "Department" means the state department of health and welfare or its duly authorized representative.

(3) "Distribute" means to give, deliver, sell, offer to give, offer to deliver, offer to sell or cause any person to do the same or hire any person to do the same.

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

(5) "Permit" means a permit issued by the department for the sale or distribution of tobacco products.

(6) "Permittee" means the holder of a valid permit for the sale or distribution of tobacco products.

(7) "Photographic identification" means state, district, territorial, possession, provincial, national or other equivalent government driver's license, identification card or military card, in all cases bearing a photograph and a date of birth, or a valid passport.

(8) "Random unannounced inspection" means an inspection of retail outlets by a law enforcement agency or by the department, with or without the assistance of a minor, to monitor compliance of this chapter.

(9) "Seller" means the person who physically sells or distributes tobacco products.

(10) "Tobacco product" means any substance that contains tobacco including, but not limited to, cigarettes, cigars, pipes, snuff, smoking tobacco, tobacco papers, or smokeless tobacco.

(11) "Vending machine" means any mechanical, electronic or other similar device which, upon the insertion of tokens, money or any other form of payment, dispenses tobacco products.

(12) "Vendor assisted sales" means any sale or distribution in which the customer has no access to the product except through the assistance of the seller.

(13) "Without a permit" means a business that has failed to obtain a permit or a business whose permit is suspended or revoked.

39-5703. POSSESSION, DISTRIBUTION OR USE BY A MINOR. (1) It shall be unlawful for a minor to possess, receive, purchase, sell, distribute, use or consume tobacco products or to attempt any of the foregoing.

(2) It shall be unlawful for a minor to provide false identifica-

tion, or make any false statement regarding their age in an attempt to obtain tobacco products.

(3) A minor who is assisting with a random unannounced inspection in accordance with this chapter shall not be in violation of this chapter.

(4) A minor may possess but not sell or distribute tobacco products in the course of employment, for duties such as stocking shelves or carrying purchases to customers' vehicles.

(5) Penalties for violations by a minor. A violation of this chapter by a minor shall constitute a misdemeanor and shall be punishable by imprisonment in an appropriate facility not exceeding six (6) months, a fine not exceeding three hundred dollars ($300), or both such fine and imprisonment. The court may, in addition to the penalties provided herein, require the minor and the minor's parents or legal guardian to attend tobacco awareness programs or to perform community service in programs related to tobacco awareness.

39-5704. PERMITTING OF TOBACCO PRODUCT RETAILERS. (1) It shall be unlawful to sell or distribute or offer tobacco products for sale or distribution at retail or to possess tobacco products with the intention of selling at retail without having first obtained a tobacco permit from the department which shall be the only retail tobacco permit or license required. Provided however, this section shall not be deemed to require a wholesaler or manufacturer's representative or their employees who, in the course of their employment, stock shelves and replenish tobacco products at a permittee's place of business to obtain a permit.

(2) The department shall administer the permitting of tobacco product retailers and shall be authorized to ensure compliance with this chapter. The department may promulgate rules in compliance with chapter 52, title 67, Idaho Code, regarding permitting of tobacco product retailers, inspections, and compliance checks, effective training and employment practices under this chapter.

(3) Permits shall be issued annually for no charge for each business location to ensure compliance with the requirements of this chapter. A copy of this chapter, rules adopted by the department, appropriate signage required by this chapter and any materials deemed necessary shall be provided with each permit issued.

(4) A separate permit must be obtained for each place of business and is nontransferable to another person, business or location.

(5) Permittees may display the permit in a prominent location.

(6) A permittee may display a sign in each location within a place of business where tobacco products are sold or distributed. A sign may be clearly visible to the customer and the seller and shall state: "STATE LAW PROHIBITS THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF EIGHTEEN (18) YEARS. PROOF OF AGE REQUIRED. ANYONE WHO SELLS OR DISTRIBUTES TOBACCO TO A MINOR IS SUBJECT TO STRICT FINES AND PENALTIES. MINORS ARE SUBJECT TO FINES AND PENALTIES."

(7) Permittees are responsible to educate employees as to the requirements of this chapter.

(8) It shall be unlawful for the permittee to allow employees who are minors to sell or distribute tobacco. Exception: Employees who are minors may possess but not sell or distribute tobacco products in the

course of employment, for such duties as stocking shelves or carrying purchases to customers' vehicles.

39-5705. SALE OR DISTRIBUTION OF TOBACCO PRODUCTS TO A MINOR. (1) It shall be unlawful to sell, distribute or offer tobacco products to a minor.

(2) Tobacco products may not be sold or distributed at retail to any person under eighteen (18) years of age unless the seller first verifies that person's age by means of photographic identification containing the person's date of birth.

(3) It shall be an affirmative defense that the seller of a tobacco product to a minor in violation of this section had requested, examined and reasonably relied upon a photographic identification from such person establishing that person's age as at least eighteen (18) years of age prior to selling such person a tobacco product. The failure of a seller to request and examine photographic identification from a person under eighteen (18) years of age prior to the sale of a tobacco product to such person shall be construed against the seller and form a conclusive basis for the seller's violation of this section.

39-5706. VENDOR ASSISTED SALES. (1) It shall be unlawful to sell or distribute tobacco products by any means other than vendor assisted sales where the customer has no access to the product except through the assistance of the seller.

(2) On and after January 1, 2000, it shall be unlawful to sell or distribute tobacco products from a vending machine. From January 1, 1999, to December 31, 1999, vending machines shall be located in a place not accessible to persons under the age of nineteen (19) years.

(3) It shall be unlawful to sell or distribute tobacco products from self-service displays.

(4) Stores with tobacco products comprising at least seventy-five percent (75%) of total merchandise are exempt from requiring vendor assisted sales, if minors are not allowed in the store and such prohibition is posted clearly on all entrance doors.

39-5707. OPENED PACKAGES AND SAMPLES. (1) It shall be unlawful to sell or distribute tobacco products for commercial purposes other than in the federally required sealed package provided by the manufacturer with all the required warning labels and health warnings.

(2) It shall be unlawful to sell or distribute tobacco products for free or below the cost of such products to the sellers or distributors of the products for commercial or promotional purposes, to members of the general public in public places or at public events.

39-5708. CIVIL PENALTIES FOR VIOLATIONS OF PERMIT. Any permittee who fails to comply with any part of this chapter, or any current state or local law or rule or regulation regarding the sale or distribution of tobacco products shall be subject to a civil penalty as provided in this section or have their permit suspended, pursuant to compliance with the contested case provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, or both.

(1) If a seller who is not a permittee violates section 39-5705,

Idaho Code, and sells or distributes tobacco products to a minor, the seller shall be fined one hundred dollars ($100).

(2) In the case of a first violation, the permittee shall be fined two hundred dollars ($200) and shall be notified in writing of penalties to be levied for further violations. For a violation of section 39-5705, Idaho Code, the permittee shall not be fined if the permittee can show that a training program was in place for the employee and that the permittee has a form signed by that employee on file stating that they understand the tobacco laws dealing with minors and the unlawful purchase of tobacco, but the permittee shall be notified in writing of penalties to be levied for any further violations. If no such training is in place, the permittee shall be fined two hundred dollars ($200).

(3) In the case of a second violation in a two (2) year period, the permittee shall be fined four hundred dollars ($400) and the permit may be suspended for up to seven (7) days. Effective training and employment practices by the permittee, as determined by the department shall be a mitigating factor in determining permit suspension. Tobacco retailers must remove all tobacco products from all areas accessible to or visible to the public while the permit is suspended.

(4) In the case of three (3) or more violations within a two (2) year period, the permittee shall be fined one thousand dollars ($1,000) and the permit shall be revoked for thirty (30) days. Tobacco retailers must remove all tobacco products from all areas accessible to or visible to the public while the permit is revoked.

(5) All moneys collected for violations pursuant to this section shall be remitted to the prevention of minors' access to tobacco fund created in section 39-5711, Idaho Code.

39-5709. CRIMINAL PENALTIES FOR VIOLATIONS WITHOUT A PERMIT. Sale or distribution of tobacco products, or any violation of this chapter, without a permit is considered by the state of Idaho as an effort to subvert the state's public purpose to prevent minor's access to tobacco products.

(1) The sale or distribution of tobacco products without a permit shall constitute a misdemeanor punishable by imprisonment not exceeding six (6) months in the county jail, a fine of three hundred dollars ($300), or by both such fine and imprisonment. If the sale or distribution of tobacco products was to a minor, the fine shall be no less than five hundred dollars ($500) nor more than one thousand dollars ($1,000). The provisions of this section shall not be applicable to an employee of the business engaged in the sale of tobacco products if the sale occurred during the course of such employment and the seller does not have an ownership interest in the business.

(2) In addition to the penalties set forth in subsection (1) of this section, the court may impose an additional fine of one thousand dollars ($1,000) per day beginning the day following the date of citation as long as the illegal tobacco sales or distribution continues. The first seven (7) days of additional fines may be suspended provided that the business or seller is able to prove that the business or seller has applied for the permit within seven (7) days of the citation.

39-5710. CONDUCT OF ENFORCEMENT ACTIONS. (1) It is the intent of the legislature that law enforcement agencies and the department shall enforce this chapter and rules promulgated pursuant thereto in a manner that can reasonably be expected to significantly reduce the extent to which tobacco products are sold or distributed to minors.

(2) Law enforcement agencies may conduct random, unannounced inspections at locations where tobacco products are sold or distributed to ensure compliance with this chapter. A copy of all citations issued under this chapter shall be submitted to the department.

(3) The department shall conduct at least two (2) random, unannounced inspections per year, with the assistance of a minor, at all locations where tobacco products are sold or distributed at retail to ensure compliance with this chapter. Local law enforcement agencies are encouraged to contract with the department to perform these required inspections.

(4) Minors may assist with random, unannounced inspections with the written consent of a parent or legal guardian. When assisting with these inspections, minors shall not provide false identification, nor make any false statement regarding their age.

(5) Citizens may file a written complaint of noncompliance of this chapter with the department, or with a law enforcement agency. Complaints shall be investigated and the proper enforcement actions taken.

(6) Within a reasonable time, not later than two (2) business days after an inspection has occurred, a representative of the business inspected shall be informed in writing of the results of the inspection.

39-5711. FUNDING AND CREATION OF PREVENTION OF MINORS' ACCESS TO TOBACCO FUND. There is hereby created the prevention of minors' access to tobacco fund in the state treasury. Moneys in the fund shall be used to fund the administration, inspections and enforcement of this chapter. Moneys in the fund may be expended only pursuant to appropriation. The fund shall consist of:

(1) The current federal funds that are available for inspections or for the prevention of minor's access to tobacco shall be utilized by the department;

(2) The fines from the civil penalties pursuant to section 39-5708, Idaho Code;

(3) Moneys from any other source.

39-5712. SEVERABILITY. If any section or provision of this chapter is held invalid, such invalidity shall not affect other sections or provisions of this chapter.

39-5713. LOCAL ORDINANCES. Nothing in this chapter shall be construed to prohibit local units of government from passing ordinances which are more stringent than the provisions of this chapter. Provided however, local units of government shall not have the power to require a permit or license for the sale or distribution of tobacco products.

SECTION 3. This act shall be in full force and effect on and after January 1, 1999. The Department of Health and Welfare is hereby authorized to begin rule promulgation and undertake other necessary tasks to administer the provisions of this act prior to January 1, 1999.

Law Without Signature.

CHAPTER 419
(S.B. No. 1408)

AN ACT

RELATING TO THE BUREAU OF OCCUPATIONAL LICENSES; AMENDING SECTION 67-2609, IDAHO CODE, TO DELETE OBSOLETE TERMINOLOGY, TO PROVIDE THAT THE BUREAU MAY FORMULATE RULES FOR ADOPTION BY THE SEVERAL BOARDS FOR WHICH THE BUREAU ACTS AS AGENT ALLOWING THE BOARDS TO RECOVER COSTS AND FEES INCURRED IN INVESTIGATING AND PROSECUTING A LICENSEE FOR A VIOLATION OF LAWS OR RULES AND ESTABLISHING A SCHEDULE OF CIVIL FINES NOT TO EXCEED ONE THOUSAND DOLLARS WHICH MAY BE IMPOSED ON A LICENSEE FOR A VIOLATION OF LAWS OR RULES, AND TO PROVIDE FOR DEPOSIT OF CIVIL FINES IN THE BUREAU OF OCCUPATIONAL LICENSING ACCOUNT.

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

SECTION 1. That Section 67-2609, Idaho Code, be, and the same is hereby amended to read as follows:

67-2609. REGISTRATION OF OCCUPATIONS. (a) The bureau of occupational licenses shall wherever the several laws regulating professions, trades and occupations which are devolved upon the bureau for administration so require or pursuant to written agreement as provided in section 67-2604, Idaho Code, exercise, in its name, or as authorized agent, but subject to the provisions of this chapter, the following powers:

(1) To conduct examinations to ascertain the qualifications and fitness of applicants to exercise the profession, trade or occupation for which an examination is held; to pass upon the qualifications of applicants for reciprocal licenses, certificates and authorities.

(2) To prescribe rules ~~and regulations~~ for a fair and wholly impartial method of examination of candidates to exercise the respective professions, trades or occupations.

(3) To prescribe rules ~~and regulations~~ defining, for the respective professions, trades and occupations, what shall constitute a school, college or university, or department of a university, or other institution, reputable and in good standing and to determine the reputability and good standing of a school, college or university, or department of a university, or other institution, by reference to a compliance with such rules. ~~and regulations;~~

(4) To establish a standard of preliminary education deemed req-

uisite to admission to a school, college or university, and to require satisfactory proof of the enforcement of such standard by schools, colleges and universities.

(5) To conduct hearings on proceedings to revoke or refuse renewal of licenses, certificates or authorities of persons exercising the respective professions, trades or occupations, and to revoke or refuse to renew such licenses, certificates or authorities.

(6) To formulate rules for adoption by the boards allowing the boards to recover costs and fees incurred in the investigation and prosecution of a licensee in accordance with the contested case provisions of chapter 52, title 67, Idaho Code, for a violation of laws or rules of the boards.

(7) To formulate rules for adoption by the boards establishing a schedule of civil fines which may be imposed upon a licensee prosecuted in accordance with the contested case provisions of chapter 52, title 67, Idaho Code, for a violation of laws or rules of the boards. Any civil fine collected by a board for a violation of its laws or rules shall not exceed one thousand dollars ($1,000) and shall be deposited in the bureau of occupational licensing account.

(8) To formulate rules ~~and regulations~~ when required in any act to be administered.

(b) None of the above enumerated functions and duties shall be exercised by the bureau of occupational licenses except upon the action and report in writing of persons designated from time to time by the chief of the bureau of occupational licenses to take such action and to make such report, for the respective professions, trades and occupations.

Approved March 30, 1998.

CHAPTER 420
(S.B. No. 1403, As Amended)

AN ACT

RELATING TO DOMESTIC VIOLENCE; AMENDING SECTION 18-918, IDAHO CODE, TO REDEFINE "HOUSEHOLD MEMBER," TO ADD A DEFINITION, TO PROVIDE THAT INFLICTION OF A TRAUMATIC INJURY UPON A HOUSEHOLD MEMBER IS A FELONY, TO PROVIDE THAT DOMESTIC ASSAULT OR BATTERY NOT RESULTING IN TRAUMATIC INJURY IS A MISDEMEANOR, TO PROVIDE THE PUNISHMENT FOR A FELONY DOMESTIC BATTERY AND FOR A MISDEMEANOR DOMESTIC BATTERY AND TO PROVIDE WHEN THE EVALUATION WHICH THE DEFENDANT IS REQUIRED TO UNDERGO SHALL BE OBTAINED PRIOR TO SENTENCING; AND AMENDING SECTION 31-3201A, IDAHO CODE, TO PROVIDE A CORRECT CITATION.

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

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

18-918. DOMESTIC ~~ASSAULT OR BATTERY~~ VIOLENCE. (1) For the purpose of this section, "household member" means a person who is a spouse, former spouse, or a person who has a child in common regardless of whether they have been married or ~~have lived together at any time~~ a person with whom a person is cohabiting, whether or not they have married or have held themselves out to be husband or wife.

(2) As used in this section, "traumatic injury" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force.

(3) Any household member who willfully inflicts a traumatic injury upon any other household member is guilty of a felony.

(4) A household member who commits an assault, as defined in section 18-901, Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic assault.

(~~3~~5) A household member who commits a battery, as defined in section 18-903, Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic battery.

(6) A conviction of felony domestic battery is punishable by imprisonment in the state prison for a term not to exceed ten (10) years or by a fine not to exceed ten thousand dollars ($10,000) or by both fine and imprisonment.

(~~4~~7) Upon a first conviction, the crime of misdemeanor domestic assault or battery is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in a county jail not to exceed six (6) months, or both. Upon a second conviction, within ten (10) years of the first conviction, the person so convicted shall be punished by imprisonment in the county jail for a term not to exceed one (1) year or by a fine not exceeding two thousand dollars ($2,000) or by both fine and imprisonment. Upon a third or subsequent conviction, within fifteen (15) years of the first conviction, the person so convicted shall be punished by imprisonment in the state prison for a term not to exceed five (5) years or by a fine not to exceed five thousand dollars ($5,000) or by both fine and imprisonment.

(~~5~~8) (a) Any person who pleads guilty or is found guilty of a violation of this section shall undergo, at the person's own expense, ~~and prior to the sentencing date,~~ an evaluation by a person, agency or organization approved by the court in accordance with subsection (c) of this section to determine whether the defendant should be required to obtain aggression counseling or other appropriate treatment. ~~for anger control and prevention.~~ Such evaluation shall be completed prior to the sentencing date if the court's list of approved evaluators, in accordance with subsection (c) of this section, contains evaluators who are able to perform the evaluation prior to the sentencing dates. If the evaluation recommends counseling or other treatment, the evaluation shall recommend the type of counseling or treatment considered appropriate for the defendant, together with the estimated costs thereof, and shall recommend any other suitable alternative counseling or treatment programs, together with the estimated costs thereof. The defendant shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the

evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that counseling is required unless the defendant makes a showing by a preponderance of evidence that counseling is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If counseling or other treatment is ordered, in no event shall the person, agency or organization doing the evaluation be the person, agency or organization that provides the counseling or other treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized for court-ordered counseling or treatment pursuant to this section for indigent defendants as provided by law. In the event that funding is provided for or on behalf of the defendant by a governmental entity, the defendant shall be ordered to make restitution to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code.

(b) If the evaluation recommends counseling or other treatment, the court shall order the person to complete the counseling or other treatment in addition to any other sentence which may be imposed. If the court determines that counseling or treatment would be inappropriate or undesirable, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred counseling or treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such counseling or treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation or a comparable program. Nothing contained in this subsection shall be construed as requiring a court to order that counseling or treatment be provided at government expense unless otherwise required by law.

(c) Each judicial district shall by rule establish a uniform system for the qualification and approval of persons, agencies or organizations to perform the evaluations required in this subsection. Only qualified evaluators approved by the court shall be authorized to perform such evaluations. Funds to establish a system for approval of evaluators shall be derived from moneys designated therefor and deposited in the district court fund as provided in section 31-3201A(p), Idaho Code.

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

31-3201A. COURT FEES. The clerk of the district court in addition

to the fees and charges imposed by chapter 20, title 1, Idaho Code, and in addition to the fee levied by chapter 2, title 73, Idaho Code, shall charge, demand and receive the following fees for services rendered by him in discharging the duties imposed upon him by law;

(a) A fee of $39.00 for filing a civil case of any type in the district court or in the magistrate's division of the district court including cases involving the administration of decedents' estates, whether testate or intestate, and conservatorships of the person or of the estate or both with the following exceptions:

The filing fee shall be $12.00 in each case where the amount of money or damages or the value of personal property claimed does not exceed $300. The filing fee shall be $14.00 in the following types of cases:

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

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

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

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

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

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

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

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

(9) In proceedings brought for adoption;

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

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

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

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

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

In all cases in which a filing fee of $39.00 is paid, $17.00 of such filing fee shall be paid to the county treasurer for deposit in the district court fund of the county; $5.00 of such filing fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the ISTARS technology fund; and $17.00 of such filing fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month pay such fees to the state treasurer for deposit in the state general account. In all cases in which a filing fee of $14.00 is paid, $4.00 of such filing fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $10.00 of such filing fee shall be paid to the county treasurer who

shall within five (5) days after the end of the month pay such fees to the state treasurer for deposit in the state general account. In all cases in which a filing fee of $12.00 is paid, $3.00 of such filing fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $9.00 of such filing fee shall be paid to the county treasurer who shall within five (5) days after the end of the month pay such fees to the state treasurer for deposit in the state general account.

(b) A fee of $17.50 shall be paid, but not in advance, by each person found guilty of any felony or misdemeanor, except when the court orders such fee waived because the person is indigent and unable to pay such fee. If the magistrate court facilities are provided by the county, $5.00 of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $12.50 of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the state general account. If the magistrate court facilities are provided by a city, $5.00 of such fee shall be paid to the city treasurer for deposit in the city general fund, $2.50 of such fee shall be paid to the city treasurer for deposit in the city capital facilities fund for the construction, remodeling and support of magistrates court facilities, and $10.00 of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the state general account.

(c) A fee of $16.50 shall be paid, but not in advance, by each person found to have committed an infraction or any minor traffic, conservation or ordinance violation; provided that the judge or magistrate may in his or her discretion consolidate separate nonmoving traffic offenses into one (1) offense for purposes of assessing such fee. If the magistrate court facilities are provided by the county, $5.00 of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $11.50 of such fee shall be paid to the county treasurer, who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the state general account. If the magistrate court facilities are provided by a city, $5.00 of such fee shall be paid to the city treasurer for deposit in the city general fund, $2.50 of such fee shall be paid to the city treasurer for deposit in the city capital facilities fund for the construction, remodeling and support of magistrate court facilities, and $9.00 of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the state general account.

(d) A fee of $19.00 shall be paid by any party, except the plaintiff, making an appearance in any civil action in the district court or in the magistrate's division of the district court. Of such fee, $4.00 shall be paid to the county treasurer for deposit in the district court fund of the county; $5.00 of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the ISTARS technology fund; and $10.00 of such fee shall be paid to the county treasurer who shall within five (5) days after the end of the

month pay such fees to the state treasurer for deposit in the state general account.

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

(f) A fee of $19.00 shall be paid upon the filing of a petition of the executor or administrator or of any person interested in an estate for the distribution of such estate, $6.00 of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $13.00 of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the state general account.

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

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

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

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

(k) A fee of $9.00 shall be paid by any party appearing after judgment or applying to reopen a case. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county. A fee of $32.00 shall be paid by a party applying to reopen a divorce action or modify a divorce decree, with all of the fee to be distributed in the same manner as the fee provided for in subsection (a) of this section is distributed.

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

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

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

(o) All fees required to be paid by this section or by rule or administrative order of the supreme court shall be collected by the clerk of the district court or by a person appointed by the clerk of

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

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

(q) Of the fees derived from the filing of any divorce action required to be transmitted to the state treasurer for deposit in the general account, the county treasurer shall retain $5.00, which shall be separately identified and deposited in the district court fund of the county. Such moneys shall be used exclusively for the purpose of establishing a uniform system of qualifying and approving persons, agencies or organizations to conduct evaluations of persons convicted of domestic assault or battery as provided in section 18-918, Idaho Code, and the administration of section 18-918(~~5~~7), Idaho Code, relating to the evaluation and counseling or other treatment of such persons, ~~for--anger-control-and-prevention,~~ including the payment of the costs of evaluating and counseling or other treatment of an indigent defendant. No provision of chapter 52, title 39, Idaho Code, shall apply to the moneys provided for in this subsection.

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

Approved March 30, 1998.

CHAPTER 421
(S.B. No. 1457, As Amended)

AN ACT

RELATING TO HEALTH CARE CONTRACTS OF MANAGED CARE ORGANIZATIONS; AMENDING SECTION 41-3915, IDAHO CODE, TO PROVIDE THAT NO HEALTH CARE PROVIDER SHALL REQUIRE A MEMBER TO MAKE ADDITIONAL PAYMENTS FOR COVERED SERVICES UNDER A HEALTH CARE CONTRACT, OTHER THAN SPECIFIED DEDUCTIBLES, COPAYMENTS OR COINSURANCE ONCE A PROVIDER HAS AGREED IN WRITING TO ACCEPT THE MANAGED CARE ORGANIZATION'S REIMBURSEMENT RATE TO PROVIDE A COVERED SERVICE.

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

SECTION 1. That Section 41-3915, Idaho Code, be, and the same is hereby amended to read as follows:

41-3915. HEALTH CARE CONTRACTS. (1) All health care contracts or other marketing documents describing health care services offered by any managed care organization shall contain:

(a) A complete description of the health care services and other benefits to which the member is entitled;

(b) A description of the accessibility and availability of services, including a list of the providers participating in the managed care plan and of the providers who are accepting new patients, the addresses of primary care physicians and participating hospitals, and the specialty of each physician and category of the other participating providers. The information required by this subsection (1)(b) may be contained in a separate document and incorporated in the contract by reference and shall be amended from time to time as necessary to provide members with the most current information;

(c) Any predetermined and prepaid rate of payment for health care services and for other benefits, if any, and any services or benefits for which the member is obliged to pay, including member responsibility for deductibles, copayments, and coinsurance;

(d) All exclusions and limitations on services or other benefits including all restrictions relating to preexisting conditions;

(e) A statement as to whether the plan includes a limited formulary of medications and a statement that the formulary will be made available to any member on request;

(f) All criteria by which a member may be terminated or denied reenrollment;

(g) Service priorities in case of epidemic, or other emergency conditions affecting demand for health care services;

(h) A statement that members shall not, under any circumstances, be liable, assessable or in any way subject to payment for the debts, liabilities, insolvency, impairment or any other financial obligations of the managed care organization;

(i) Grievance procedures;

(j) Procedures for notifying enrollees of any change in benefits; and

(k) A description of all prior authorization review procedures for health care services.

(2) In addition to the requirements of subsection (1) of this section, an organization offering a general managed care plan shall:

(a) Establish procedures for members to select or change primary care providers;

(b) Establish procedures to notify members of the termination of their primary care provider and the manner in which the managed care organization will assist members in transferring to another participating primary care provider;

(c) Establish referral procedures for specialty care and procedures for after-hours, out-of-network, out-of-area and emergency care;

(d) Allow members direct access to network obstetricians and gynecologists for maternity care, annual visits, and follow-up gynecological care for conditions diagnosed during maternity care or annual visits;

(e) Allow family practice and general practice physicians, general internists, pediatricians, obstetricians, and gynecologists to be included in the general managed care plan's listing of primary care providers.

(3) No managed care organization shall cancel the enrollment of a member or refuse to transfer a member from a group to an individual basis for reasons relating to age, sex, race, religion, occupation, or health status. However, nothing contained herein shall prevent termination of a member who has violated any published policies of the organization, which have been approved by the director.

(4) No managed care organization shall contract with any provider under provisions which require a member to guarantee payment, other than specified copayments, deductibles and coinsurance to such provider in the event of nonpayment by the managed care organization for any services rendered under contract directly or indirectly between the member and the managed care organization.

(5) No health care provider shall require a member to make additional payments for covered services under a health care contract, other than specified deductibles, copayments, or coinsurance once a provider has agreed in writing to accept the managed care organization's reimbursement rate to provide a covered service. ~~or has accepted a referral to provide a covered service.~~

(6) The rates charged by any managed care organization to its members shall not be excessive, inadequate, or unfairly discriminatory. The director may define by rule what constitutes excessive, inadequate or unfairly discriminatory rates and may require a description of the actuarial assumptions and analysis upon which such rates are based as well as whatever other information, available to the managed care organization, he deems necessary to determine that a rate or proposed rate meets the requirements of this subsection. If experience rating is a common health insurance practice in the area served by the managed care organization, it shall have the right to experience-rate its own contracts.

(7) No such contract form or amendment to an approved contract form shall be issued unless it has been filed with the director. The contract form or amendment shall become effective thirty (30) days after such filing unless specifically disapproved by the director. Any such disapproval shall be based on the requirements of section 41-3905, Idaho Code, or subsection (1), (2), (4), (5) or (6) of this section.

(8) The director shall disapprove any contract which, with amendments, does not constitute the entire contractual obligation between the parties involved. No portion of the charter, bylaws, or other constituent document of the managed care organization shall constitute part of such a contract unless set forth in full therein or incorporated by reference as authorized in this section.

Approved March 30, 1998.

CHAPTER 422
(S.B. No. 1458, As Amended)

AN ACT

RELATING TO INSURANCE FOR HEALTH CARE; AMENDING SECTION 41-3927, IDAHO CODE, TO PROVIDE THAT NO MANAGED CARE ORGANIZATION MAY REQUIRE AS AN ELEMENT OF ANY PROVIDER CONTRACT THAT ANY PERSON AGREE TO THE UNNEGOTIATED ADJUSTMENT BY THE MANAGED CARE ORGANIZATION OF THE PROVIDER'S CONTRACTUAL REIMBURSEMENT RATE TO EQUAL THE LOWEST REIMBURSEMENT RATE THE PROVIDER HAS AGREED TO CHARGE ANY OTHER PAYOR OR TO A REQUIREMENT THAT THE PROVIDER ADJUST, OR ENTER INTO NEGOTIATIONS TO ADJUST, HIS OR HER CHARGES TO THE MANAGED CARE ORGANIZATION IF THE PROVIDER AGREES TO CHARGE ANOTHER PAYOR LOWER RATES OR TO A REQUIREMENT THAT THE PROVIDER DISCLOSE HIS OR HER CONTRACTUAL REIMBURSEMENT RATES FROM OTHER PAYORS; AMENDING CHAPTER 28, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2873, IDAHO CODE, TO PROHIBIT BEST PRICE OR MOST FAVORED NATIONS CLAUSE INCLUSION IN STOCK OR MUTUAL INSURANCE COMPANY HEALTH CARE PROVIDER PARTICIPATION CONTRACT; AND AMENDING CHAPTER 34, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3443, IDAHO CODE, TO PROHIBIT A BEST PRICE OR MOST FAVORED NATIONS CLAUSE AS AN ELEMENT OF ANY SERVICE PROVIDED BY A HOSPITAL OR PROFESSIONAL SERVICE CORPORATION.

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

SECTION 1. That Section 41-3927, Idaho Code, be, and the same is hereby amended to read as follows:

41-3927. HEALTH CARE PROVIDERS -- PARTICIPATION BY ANY QUALIFIED, WILLING PROVIDER -- CONTRACTS -- GRIEVANCE PROCEDURE. (1) Any managed care organization issuing benefits pursuant to the provisions of this chapter shall be ready and willing at all times to enter into care provider service agreements with all qualified providers of the category or categories which are necessary to provide the health care services covered by an organization if the health care providers: are qualified under the laws of the state of Idaho, desire to become participant providers of the organization, meet the requirements of the organization, and practice within the general area served by the organization.

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

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

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

(4) No managed care organization may require as an element of any provider contract that any person agree:

(a) To deny a member access to services not covered by the managed care plan if the member is informed that he will be responsible to pay for the noncovered services and the member nonetheless desires to obtain such services;

(b) To refrain from treating a member even at that member's request and expense if the provider had been, but is no longer, a contracting provider under the managed care plan and the provider has notified the member that the provider is no longer a contracting provider under the managed care plan;

(c) To the unnegotiated adjustment by the managed care organization of the provider's contractual reimbursement rate to equal the lowest reimbursement rate the provider has agreed to charge any other payor;

(d) To a requirement that the provider adjust, or enter into negotiations to adjust, his or her charges to the managed care organization if the provider agrees to charge another payor lower rates; or

(e) To a requirement that the provider disclose his or her contractual reimbursement rates from other payors.

(5) A managed care organization shall not refuse to contract with or compensate for covered services an otherwise eligible provider or nonparticipating provider solely because the provider has in good faith communicated with one (1) or more current, former, or prospective patient regarding the provisions, terms or requirements of the organization's products as they relate to the needs of the provider's patients.

(6) As part of a provider contract, a managed care organization may require a provider to indemnify and hold harmless the managed care organization under certain circumstances so long as the managed care organization also agrees to indemnify and hold harmless the provider under comparable circumstances.

(7) On request and within a reasonable time, a managed care organization shall make available to any party to a provider contract any documents referred to or adopted by reference in the contract except for information which is proprietary or a trade secret or confidential personnel records.

(8) A managed care organization shall permit a contracting provider who is practicing in conformity with community standards to

advocate for his patient without being subject to termination or penalty for the sole reason of such advocacy.

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

SECTION 2. That Chapter 28, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-2873, Idaho Code, and to read as follows:

41-2873. BEST PRICE -- MOST FAVORED NATIONS CLAUSE PROHIBITED. (1) No stock or mutual insurance company (hereafter, insurance company) may require, as an element of any health care provider participation contract, that any provider agree:

(a) To the unnegotiated adjustment by the insurance company of the provider's contractual reimbursement rate to equal the lowest reimbursement rate the provider has agreed to charge any other payor;

(b) To a requirement that the provider adjust, or enter into negotiations to adjust, his or her charges to the insurance company if the provider agrees to charge another payor lower rates; or

(c) To a requirement that the provider disclose his or her contractual reimbursement rates from other payors.

(2) For the purposes of this section, "provider" means any physician, hospital, or other person licensed or otherwise authorized to furnish health care services in Idaho.

SECTION 3. That Chapter 34, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-3443, Idaho Code, and to read as follows:

41-3443. BEST PRICE -- MOST FAVORED NATIONS CLAUSE PROHIBITED. No service corporation may require, as an element of any service agreement, that any licensee or hospital agree:

(1) To the unnegotiated adjustment by the service corporation of the licensee's or hospital's contractual reimbursement rate to equal the lowest reimbursement rate the licensee or hospital has agreed to charge any other payor;

(2) To a requirement that the licensee or hospital adjust, or enter into negotiations to adjust, their charges to the service corporation if the licensee or hospital agrees to charge another payor lower rates; or

(3) To a requirement that the licensee or hospital disclose his, her or its contractual reimbursement rates from other payors.

Approved March 30, 1998.

CHAPTER 423
(S.B. No. 1483)

AN ACT

RELATING TO MOTOR VEHICLE INSURANCE; AMENDING SECTION 49-1208, IDAHO CODE, TO PROVIDE THAT ANY PERSON CONVICTED OF A VIOLATION OF SECTIONS 49-1229, 49-1232 OR 49-1428, IDAHO CODE, FOR THE FIRST TIME SHALL BE REQUIRED TO MAINTAIN PROOF OF FINANCIAL RESPONSIBILITY FOR ONE YEAR FOLLOWING THE CONVICTION AND FOR THREE YEARS FOR A SECOND AND ANY SUBSEQUENT CONVICTION WITHIN FIVE YEARS AND TO REQUIRE THAT THE DEPARTMENT NOTIFY THE PERSON OF THE REQUIREMENTS FOR MAINTAINING PROOF OF FINANCIAL RESPONSIBILITY UPON A SECOND AND SUBSEQUENT CONVICTION; AMENDING SECTION 49-1220, IDAHO CODE, TO PROVIDE FOR CANCELLATION OR RETURN OF PROOF OF FINANCIAL RESPONSIBILITY WITH RESPECT TO A PERSON SUBJECT TO THE ONE-YEAR REQUIREMENT, TO PROHIBIT ISSUANCE OF A DRIVER'S LICENSE TO A PERSON SUBJECT TO THE ONE-YEAR REQUIREMENT WHOSE PROOF HAS BEEN CANCELLED OR RETURNED UNLESS PROOF IS REESTABLISHED FOR THE REMAINDER OF THE PERIOD AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-1229, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE REQUIREMENT FOR CONTINUOUS INSURANCE COVERAGE, TO PROVIDE AN INFRACTION PENALTY FOR A FIRST CONVICTION AND MISDEMEANOR PENALTIES FOR A SECOND AND ANY SUBSEQUENT CONVICTION WITHIN FIVE YEARS OF A FAILURE TO PROVIDE CONTINUOUS MOTOR VEHICLE LIABILITY INSURANCE, TO REQUIRE NOTICE OF PENALTIES BY THE DEPARTMENT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-1232, IDAHO CODE, TO PROVIDE AN INFRACTION PENALTY FOR A FIRST CONVICTION AND MISDEMEANOR PENALTIES FOR A SECOND AND ANY SUBSEQUENT CONVICTION WITHIN FIVE YEARS OF A FAILURE TO CARRY PROOF OF INSURANCE IN A MOTOR VEHICLE AND TO REQUIRE NOTICE OF PENALTIES BY THE DEPARTMENT; AMENDING SECTION 49-1428, IDAHO CODE, TO PROVIDE AN INFRACTION PENALTY FOR A FIRST CONVICTION AND MISDEMEANOR PENALTIES FOR A SECOND AND ANY SUBSEQUENT CONVICTION WITHIN FIVE YEARS OF OPERATING A MOTOR VEHICLE WITHOUT INSURANCE, TO REQUIRE NOTICE OF PENALTIES BY THE DEPARTMENT 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 49-1208, Idaho Code, be, and the same is hereby amended to read as follows:

49-1208. PROOF REQUIRED UPON CERTAIN CONVICTIONS. (1) If a person is not licensed, but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial or has entered a plea of guilty for any offense requiring the suspension or revocation of the driver's license, or for operating a motor vehicle upon the highways without being licensed to do so, no driver's license shall be issued to that person until he gives and maintains proof of financial responsibility.

(2) Whenever the department or a court suspends, or the department revokes a resident's driver's license or nonresident's driving privilege by reason of a conviction, forfeiture of bail, or upon a

plea or finding of guilty, the license or privilege shall remain suspended or revoked unless the person shall have previously given or shall immediately give and maintain proof of financial responsibility.

(3) Any person who is convicted of violating the provisions of either section 49-1229, 49-1232 or 49-1428, Idaho Code, for the first time shall give and maintain proof of financial responsibility throughout the one (1) year period following the conviction, and for a second conviction and any subsequent conviction within five (5) years, shall give and maintain proof of financial responsibility throughout the three (3) year period following such conviction. The department shall notify any person subject to this subsection of the requirements for maintaining proof of financial responsibility for a second and any subsequent conviction.

(4) Whenever a person is required to maintain proof of financial responsibility, and who is not a resident of Idaho, files and maintains proof of financial responsibility in his home state the department shall reinstate the person's driving privileges as long as proof of financial responsibility is maintained in the person's home state.

SECTION 2. That Section 49-1220, Idaho Code, be, and the same is hereby amended to read as follows:

49-1220. DURATION OF PROOF -- WHEN PROOF MAY BE CANCELLED OR RETURNED. (1) The department shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the department shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this chapter, or the department shall waive the requirement of filing proof, in any of the following events:

(a) At any time after one (1) year or three (3) years from the date the proof was required, as provided in section 49-1208, Idaho Code, when, during the one (1) year or three (3) year period preceding the request, the department has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the driver's license or nonresident's operating privilege of the person by or for whom the proof was furnished; or

(b) In the event of the death of the person on whose behalf the proof was filed or the permanent incapacity of the person to operate a motor vehicle; or

(c) In the event the person who has given proof surrenders his driver's license to the department.

(2) The department shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by the proof is then pending, or any judgment upon any liability is then unsatisfied, or in the event the person who has filed the bond or deposited the money or securities has, within one (1) year immediately preceding the request, been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of the facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable for the injury or damage, shall be sufficient

evidence in the absence of evidence to the contrary in the records of the department.

(3) Whenever any person whose proof has been ~~canceled~~ cancelled or returned applies for a driver's license within a period of one (1) year or within a period of three (3) years from the date proof was originally required, as provided in section 49-1208, Idaho Code, the application shall be refused unless the applicant shall reestablish proof for the remainder of the one (1) year or three (3) year period.

SECTION 3. That Section 49-1229, Idaho Code, be, and the same is hereby amended to read as follows:

49-1229. REQUIRED MOTOR VEHICLE INSURANCE. (1) Every owner of a motor vehicle which is registered and operated in Idaho by the owner or with his permission shall continuously, except as provided in section 41-2516, Idaho Code, provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of motor vehicles described therein in an amount not less than that required by section 49-117, Idaho Code, and shall demonstrate the existence of any other coverage required by this title or a certificate of self-insurance issued by the department pursuant to section 49-1224, Idaho Code, for each motor vehicle to be registered.

(2) A motor vehicle owner who prefers to post an indemnity bond with the director of the department of insurance in lieu of obtaining a policy of liability insurance may do so. Such bond shall guarantee that any loss resulting from liability imposed by law for bodily injury, death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance and use of the motor vehicle sought to be registered shall be paid within thirty (30) days. The indemnity bonds shall guarantee payment in an amount no less than fifty thousand dollars ($50,000) for any one (1) accident of which fifteen thousand dollars ($15,000) is for property damage, for each vehicle registered up to a maximum of one hundred twenty thousand dollars ($120,000) for five (5) or more vehicles.

(3) Any bond given in connection with this chapter shall be, and shall be construed to be, a continuing instrument and shall cover the period for which the motor vehicle is to be registered and operated. Such bond shall be on a form approved by the director of insurance with a surety company authorized to do business in the state.

(4) In addition to any motor vehicle insurance required by the provisions of this chapter, any motor carrier operating under authority of a permit issued by the public utilities commission shall comply with the insurance requirements of section 61-804, Idaho Code.

(5) It is an infraction punishable by a fine of seventy-five dollars ($75.00) for any person to violate the provisions of this section for the first time. A second and any subsequent conviction for a violation of the provisions of this section within a period of five (5) years shall be a misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six (6) months, or both. The department shall notify any person convicted of a violation of this section of the penalties which may be imposed for a second and any subsequent conviction.

SECTION 4. That Section 49-1232, Idaho Code, be, and the same is hereby amended to read as follows:

49-1232. CERTIFICATE OR PROOF OF LIABILITY INSURANCE TO BE CARRIED IN MOTOR VEHICLE. (1) A certificate or proof of liability insurance shall be in the possession of the operator of every motor vehicle or present in every motor vehicle at all times when the vehicle is operated within this state. The certificate or proof of liability insurance shall be provided for inspection to any peace officer upon request to the operator of any motor vehicle. No person shall be convicted of violating this section if that person produces at any time prior to conviction the certificate or proof of liability insurance covering the motor vehicle that person is accused of operating in violation of this section, where the certificate or proof of liability insurance demonstrates the existence of liability insurance described in section 49-1212, Idaho Code, which was in effect at the time of occurrence of the violation.

(2) It is an infraction punishable by a fine of seventy-five dollars ($75.00) for any person to violate the provisions of this section for the first time. A second and any subsequent conviction for a violation of the provisions of this section within five (5) years shall be a misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six (6) months, or both. The department shall notify any person convicted of a violation of this section of the penalties which may be imposed for a second and any subsequent conviction.

SECTION 5. That Section 49-1428, Idaho Code, be, and the same is hereby amended to read as follows:

49-1428. FINANCIAL RESPONSIBILITY. (1) It shall be unlawful for any person to operate a motor vehicle upon highways without a valid policy of liability insurance in full force and effect in an amount not less than that provided in section 49-117, Idaho Code, or unless the person has been issued a certificate of self-insurance pursuant to section 49-1224, Idaho Code, or has previously posted an indemnity bond with the director of insurance as provided in section 49-1229, Idaho Code.

(2) It is an infraction punishable by a fine of seventy-five dollars ($75.00) for any person to violate the provisions of this section for the first time. A second and any subsequent conviction of a violation of the provisions of this section within five (5) years shall be a misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six (6) months, or both. The department shall notify any person convicted of a violation of this section of the penalties which may be imposed for a second and any subsequent conviction.

SECTION 6. This act shall be in full force and effect on and after January 1, 1999.

Approved March 30, 1998.

CHAPTER 424
(H.B. No. 748, As Amended)

AN ACT

RELATING TO WATER EXCHANGES AND COMMINGLED WATER; AMENDING SECTION 42-105, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS, TO PROVIDE THAT THE USE OF NATURAL WATERWAYS TO CONVEY WATER IS SUBJECT TO REGULATION, MEASUREMENT AND REPORTING, AND TO PROVIDE THAT A PERSON SEEKING TO EXCHANGE RIGHTS TO THE USE OF WATER BETWEEN EXISTING WATER RIGHTS OR WITH A WATER SOURCE SHALL MAKE APPLICATION UNDER THE PROVISIONS OF SECTION 42-240, IDAHO CODE; AND AMENDING CHAPTER 2, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-240, IDAHO CODE, TO PROVIDE A PROCEDURE FOR FILING WITH THE DEPARTMENT OF WATER RESOURCES AN APPLICATION TO EXCHANGE WATER FROM A SURFACE WATER SOURCE WITH OTHER WATER FROM A SURFACE WATER SOURCE, AND TO PROVIDE FOR THE PAYMENT OF A FILING FEE, PUBLICATION OF NOTICE, PROTEST AND HEARING, DECISION BY THE DIRECTOR AND OPPORTUNITY FOR JUDICIAL REVIEW.

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

SECTION 1. That Section 42-105, Idaho Code, be, and the same is hereby amended to read as follows:

42-105. USE OF NATURAL ~~CHANNELS~~ WATERWAYS -- MEASUREMENT OF COMMINGLED WATER -- ~~APPLICATION FOR~~ APPROVAL OF RIGHT TO EXCHANGE WATER. (1) The water ~~to which~~ that a person ~~may be~~ is entitled to divert by reason of a valid ~~permit or license issued by the department of water resources of~~ water right ~~heretofore established by diversion and application to beneficial use under the constitution of this state~~ may be turned into the channel of another ~~stream~~ a natural waterway and mingled with its water, and then reclaimed~~; and water may be turned into any ditch, natural channel or waterway from reservoirs or other sources of water supply, and such water may be substituted or exchanged for an equal amount of water diverted from the stream, creek or river into which such water flows, or any tributary thereof~~, but in reclaiming the water so mingled, ~~or diverting water in lieu thereof from any such stream, creek, river or tributary,~~ the amount of water to which prior appropriators may be entitled shall not be diminished, and due allowance shall be made for loss by evaporation and seepage. ~~Approval of any such exchange of water shall be obtained by filing application for permit to appropriate water under the provisions of section 42-202, Idaho Code, in the event the water to be exchanged is unappropriated public water, or by filing an application to exchange water as provided in this act in the event the water to be exchanged has been previously appropriated by the applicant under the constitution or statutes of this state. In no case, however, shall any such exchange of water be approved by the department of water resources until the department has received an agreement in form approved by the attorney general signed by the person proposing the exchange and each person or organization owning rights to water with whom such exchange is proposed to be made~~ The use of natural waterways to commingle and

reclaim water shall be subject at all times to the supervision and control of the director of the department of water resources and shall be subject to the regulation of the watermaster within an established water district. The amounts of water turned into or diverted from all natural waterways are subject to the requirement of measurement and reporting.

(2) The water that a person is entitled to divert by reason of a valid water right, or water that a person is seeking to appropriate, may be exchanged for water under another water right, or for other water from the same or another source, as hereinafter provided:

(a) If the applicant intends to exchange water the applicant is entitled to divert under an existing valid water right for any other water, approval of the exchange shall be obtained by filing an application under the provisions of section 42-240, Idaho Code;

(b) If the applicant proposes to exchange water that the applicant is seeking to appropriate, approval of the exchange shall be obtained by filing an application to appropriate water under section 42-202, Idaho Code. The proposed exchange shall be described in the application and the application shall be processed in accordance with the provisions of section 42-203A, Idaho Code. If the application seeks to exchange the water to be appropriated with water available under another water right, the application shall be accompanied by an agreement to exchange signed by the owner of the existing water right. An exchange with water under an existing water right cannot result in an enlargement in use of the existing right.

(3) ~~Any such~~ An exchange of water hereafter made without the approval of the department of water resources as provided in this ~~act~~ section shall be invalid. Nothing in this section shall affect the right a person may have or may obtain to turn water into a ditch or other artificial conveyance and reclaim the water.

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 42-240, Idaho Code, and to read as follows:

42-240. APPLICATION FOR RIGHT TO EXCHANGE WATER -- FILING FEE -- NOTICE -- PROTEST -- HEARING -- APPROVAL OR DENIAL -- APPEAL. (1) Any person holding a right for the use of surface water may make application to the director of the department of water resources to exchange water authorized to be diverted under the right with the same or a different source, or with water authorized to be diverted under one (1) or more other rights from the same source or another surface water source. If the application proposes an exchange with water under another water right, the application shall be accompanied by an agreement in writing subscribed by the person proposing the exchange and each person or organization owning rights to water with whom the exchange is proposed to be made.

(2) The application shall be upon forms furnished by the department and shall contain such information as shall enable the director to determine the nature of the proposed exchange, and shall be accompanied by the statutory filing fee provided under section 42-221,

Idaho Code, for an application to change a vested water right.

(3) Upon receipt of the application, it shall be the duty of the director to examine the same and, if otherwise proper, to cause notice of the proposed exchange to be published in the same manner as applications under section 42-203A, Idaho Code. The notice shall fully describe the nature of the proposed exchange of water and shall advise that anyone who wishes to protest shall file notice of protest in accordance with the provisions of section 42-203A, Idaho Code.

(4) Upon the receipt of any protest it shall be the duty of the director to investigate the same and to conduct a hearing thereon. The director shall also advise the watermaster of the district in which the exchange is proposed, if a district exists, and the watermaster shall notify the director of the watermaster's recommendations on the application. The director shall not take final action on the application or exchange until the director has received the recommendations of the watermaster, including recommended conditions necessary for the exchange of water to be properly administered and regulated.

(5) The director shall examine all the evidence and available information and shall approve the exchange in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the exchange does not constitute an enlargement in use of the original right or rights, the exchange is consistent with the conservation of water resources within the state of Idaho, and the exchange is in the local public interest as defined in section 42-203A, Idaho Code. Unless otherwise provided in a written agreement between the applicant and other right holders, the director shall condition approval of an exchange so that the exchange will not be operative during times when water is not available to satisfy the exchange, and that during these times the right to use water automatically reverts to the place of use authorized under the water rights. A copy of the approved application for exchange shall be provided to the applicant and the watermaster, and the applicant shall be authorized upon receipt thereof to make the exchange in accordance with the conditions set forth by the director. Should an approved exchange thereafter be discontinued, the applicant or the applicant's successor in interest must so notify the director and the district watermaster.

(6) In the absence of a contrary agreement by the parties to an exchange, when the director has approved a right to exchange storage water for the natural flow of a stream or other water supply, the storage water shall be delivered in preference to any exchange rights subsequently approved using the same storage water right.

(7) Any person or persons feeling themselves aggrieved by a final order or final action of the director under this section may, if a protest was filed and 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 30, 1998.

CHAPTER 425
(H.B. No. 688)

AN ACT

RELATING TO PROVIDING FALSE INFORMATION TO LAW ENFORCEMENT OFFICERS; AMENDING SECTION 18-5413, IDAHO CODE, TO PROVIDE THAT A PERSON IS GUILTY OF A MISDEMEANOR IF HE KNOWINGLY GIVES OR CAUSES TO BE GIVEN FALSE INFORMATION REGARDING HIS OR ANOTHER'S IDENTITY TO ANY LAW ENFORCEMENT OFFICER INVESTIGATING THE COMMISSION OF AN OFFENSE.

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

SECTION 1. That Section 18-5413, Idaho Code, be, and the same is hereby amended to read as follows:

18-5413. PROVIDING FALSE INFORMATION TO LAW ENFORCEMENT OFFICERS, GOVERNMENT AGENCIES, OR SPECIFIED PROFESSIONALS. (1) A person is guilty of a misdemeanor if he knowingly gives or causes to be given false information to any law enforcement officer, any state or local government agency or personnel, or to any person licensed in this state to practice social work, psychology or counseling, concerning the commission of an offense, knowing that the offense did not occur or knowing that he has no information relating to the offense or danger.

(2) A person is guilty of a misdemeanor if he knowingly gives or causes to be given false information regarding his or another's identity to any law enforcement officer investigating the commission of an offense.

Approved March 30, 1998.

CHAPTER 426
(H.B. No. 612)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 19-4705, IDAHO CODE, TO PROVIDE THAT SIXTY-FIVE PERCENT OF FINES AND FORFEITURES REMITTED FOR VIOLATIONS OF FISH AND GAME LAWS SHALL BE APPORTIONED TO THE FISH AND GAME FUND AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 4, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-412A, IDAHO CODE, TO PROVIDE THAT FINES AND FORFEITURES REMITTED FOR VIOLATIONS OF FISH AND GAME LAWS SHALL BE PROVIDED FOR HUNTER AND ARCHERY EDUCATION PROGRAMS AND FOR THE IMPROVEMENT OF LOCAL SHOOTING RANGES, TO PROVIDE THAT UP TO ONE HUNDRED THOUSAND DOLLARS PER YEAR MAY BE PROVIDED TO LOCAL SHOOTING RANGES FOR THE IMPROVEMENT OF THOSE RANGES, TO PROVIDE FOR DISTRIBUTION BY THE FISH AND GAME COMMISSION AND TO PROVIDE THAT REMAINING FINES AND FORFEITURES SHALL BE PROVIDED FOR HUNTER AND ARCHERY EDUCATION PROGRAMS.

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

SECTION 1. That Section 19-4705, Idaho Code, be, and the same is hereby amended to read as follows:

19-4705. PAYMENT OF FINES AND FORFEITURES -- SATISFACTION OF JUDGMENT -- DISPOSITION -- APPORTIONMENT. (a) All fines and forfeitures collected pursuant to the judgment of any court of the state shall be remitted to the court in which the judgment was rendered. The judgment shall then be satisfied by entry in the docket of the court. The clerk of the court shall daily remit all fines and forfeitures to the county auditor who shall at the end of each month apportion the proceeds according to the provisions of this act. Other existing laws regarding the disposition of fines and forfeitures are hereby repealed to the extent such laws are inconsistent with the provisions of this act except as provided in section 49-1013(3), Idaho Code.

(b) Fines and forfeitures remitted for violations of fish and game laws shall be apportioned two and one-half ~~per--cent~~ <u>percent</u> (2 1/2%) to the state treasurer for deposit in the state general account, ten ~~per-cent~~ <u>percent</u> (10%) to the search and rescue account, twenty-two and one-half ~~per--cent~~ <u>percent</u> (22 1/2%) to the district court fund and sixty-five ~~per-cent~~ <u>percent</u> (65%) to the ~~public--school income~~ <u>fish and game</u> fund.

(c) Fines and forfeitures remitted for violations of state motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten ~~per--cent~~ <u>percent</u> (10%) to the state treasurer for deposit in the state general account, forty-five ~~per--cent~~ <u>percent</u> (45%) to the state treasurer for deposit in the highway distribution account, twenty-two and one-half ~~per-cent~~ <u>percent</u> (22 1/2%) to the district court fund and twenty-two and one-half ~~per-cent~~ <u>percent</u> (22 1/2%) to the state treasurer for deposit in the public school income fund; provided, however, that fines and forfeitures remitted for violation of state motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, where an arrest is made or a citation is issued by a city law enforcement official, or by a law enforcement official of a governmental agency under contract to provide law enforcement services for a city, shall be apportioned ten ~~per--cent~~ <u>percent</u> (10%) to the state treasurer for deposit in the state general account and ninety ~~per-cent~~ <u>percent</u> (90%) to the city whose officer made the arrest or issued the citation.

(d) Fines and forfeitures remitted for violation of any state law not involving fish and game laws, or motor vehicle laws, or state driving privilege laws, or state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten ~~per-cent~~ <u>percent</u> (10%) to the state treasurer for deposit in the state general account and ninety ~~per--cent~~ <u>percent</u> (90%) to the district court fund of the county in which the violation occurred.

(e) Fines and forfeitures remitted for violation of county ordi-

nances shall be apportioned ten ~~per-cent~~ percent (10%) to the state treasurer for deposit in the state general account and ninety ~~per-cent~~ percent (90%) to the district court fund of the county whose ordinance was violated.

(f) Fines and forfeitures remitted for violation of city ordinances shall be apportioned ten ~~per-cent~~ percent (10%) to the state treasurer for deposit in the state general account and ninety ~~per-cent~~ percent (90%) to the city whose ordinance was violated.

(g) Fines and forfeitures remitted for violations not specified in this act shall be apportioned ten ~~per-cent~~ percent (10%) to the state treasurer for deposit in the state general account and ninety ~~per--cent~~ percent (90%) to the district court fund of the county in which the violation occurred except in cases where a duly designated officer of any city police department or city law enforcement official shall have made the arrest for any such violation, in which case ninety ~~per-cent~~ percent (90%) shall be apportioned to the city whose officer made the arrest.

(h) Fines and forfeitures remitted for violations involving registrations of motorcycles or motor-driven cycles used off highways, snowmobiles, or use of winter recreation parking areas shall be apportioned ten ~~per-cent~~ percent (10%) to the state treasurer for deposit to the state general account and ninety ~~per-cent~~ percent (90%) to the general account of the county or city whose law enforcement official issued the citation.

(i) Fines and forfeitures remitted for violations of overweight laws as provided in section 49-1013(3), Idaho Code, shall be deposited one hundred ~~per--cent~~ percent (100%) into the highway distribution account.

(j) As used in this section, the term "city law enforcement official" shall include an official of any governmental agency which is providing law enforcement services to a city in accordance with the terms of a contract or agreement, when such official makes the arrest or issues a citation within the geographical limits of the city and when the contract or agreement provides for payment to the city of fines and forfeitures resulting from such service.

SECTION 2. That Chapter 4, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-412A, Idaho Code, and to read as follows:

36-412A. EDUCATION PROGRAMS -- FINES AND FORFEITURES -- LOCAL SHOOTING RANGES. (1) Fines and forfeitures remitted for violations of fish and game laws pursuant to section 19-4705, Idaho Code, shall be used for hunter and archery education and the improvement of local shooting ranges as provided in this section.

(2) An amount not to exceed one hundred thousand dollars ($100,000) per year may be provided for local shooting ranges for the improvement of those ranges and their operations. No single range shall receive all of the money in any single year. The commission shall determine the amount available to distribute up to the limit provided in this section, the distributions, and the recipients. The commission shall have the authority to distribute all or none of the

available fines and forfeitures in any single year.

(3) Fines and forfeitures remaining after distribution to local shooting ranges shall be provided to hunter and archery education programs.

Approved March 31, 1998.

CHAPTER 427
(S.B. No. 1322)

AN ACT

RELATING TO EMINENT DOMAIN TAKINGS; AMENDING SECTION 7-711, IDAHO CODE, TO PROVIDE FOR ASCERTAINING THE VALUE OF THE PROPERTY USING THE ASSESSED VALUE FOR PROPERTY TAX PURPOSES AS THE MINIMUM AMOUNT FOR DAMAGES UNLESS THE PROPERTY HAS BEEN SUBSTANTIALLY ALTERED AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 7-711, Idaho Code, be, and the same is hereby amended to read as follows:

7-711. ASSESSMENT OF DAMAGES. The court, jury or referee must hear such legal testimony as may be offered by any of the parties to the proceedings, and thereupon must ascertain and assess:

1. The value of the property sought to be condemned, and all improvements thereon pertaining to the realty, and of each and every separate estate or interest therein; if it consists of different parcels, the value of each parcel and each estate or interest therein shall be separately assessed. For purposes of ascertaining the value of the property, the assessed value for property tax purposes shall be used as the minimum amount for damages unless the court, jury or referee finds the property has been altered substantially.

2. If the property sought to be condemned constitutes only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned, by reason of its severance from the portion sought to be condemned, and the construction of the improvement in the manner proposed by the plaintiff.

3. Separately, how much the portion not sought to be condemned, and each estate or interest therein, will be specially and directly benefited, if at all, by the construction of the improvement proposed by the plaintiff; and if the benefit shall be equal to the damages assessed, under ~~subdivision~~ paragraph 2., the owner of the parcel shall be allowed no compensation except the value of the portion taken; but if the benefit shall be less than the damages so assessed, the former shall be deducted from the latter, and the remainder shall be the only damages allowed in addition to the value.

4. If the property sought to be condemned be for a railroad, the cost of good and sufficient fences along the line of such railroad, and the cost of cattle guards where fences may cross the line of such railroad.

5. As far as practicable, compensation must be assessed for each source of damages separately.

6. If the property sought to be condemned is private real property actively devoted to agriculture, the damages which will accrue because of the costs, if any, of farming around electrical transmission line structure(s) for a transmission line with a capacity in excess of two hundred thirty (230) KV (kilovolts). If the property sought to be condemned has been the subject of a previous condemnation proceeding or proceedings for electrical transmission line structure(s) and at the time of condemnation the field holds other electrical transmission line structure(s), such evidence of costs referred to above may also include the cumulative effects, if any, of conducting farming operations around other electrical transmission line structure(s) in the same field, whether such structure(s) are of the ~~condemnor~~ condemner or not.

Approved March 31, 1998.

CHAPTER 428
(H.B. No. 774, As Amended)

AN ACT

RELATING TO THE STATE INSURANCE FUND; AMENDING SECTION 72-901, IDAHO CODE, TO PROVIDE THAT THE STATE INSURANCE FUND IS AN INDEPENDENT BODY CORPORATE POLITIC, TO PROVIDE FOR APPOINTMENT OF THE BOARD OF DIRECTORS OF THE STATE INSURANCE FUND, TO PROVIDE TERMS, TO PROVIDE DUTIES, TO PROVIDE PURPOSES, TO PROVIDE APPLICATION OF TITLE 41, IDAHO CODE, TO THE FUND, TO PROHIBIT THE FUND FROM OPERATING AS AN INSURER IN OTHER STATES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-902, IDAHO CODE, TO PROVIDE THAT THE BOARD OF DIRECTORS SHALL APPOINT A MANAGER OF THE STATE INSURANCE FUND, TO PROVIDE QUALIFICATIONS FOR THE MANAGER AND TO DELETE REFERENCE TO THE STATE INSURANCE MANAGER ACQUIRING REAL PROPERTY; AMENDING SECTION 72-906, IDAHO CODE, TO PROVIDE THAT THE MANAGER MAY EMPLOY NECESSARY PERSONNEL, TO PROVIDE THAT THE PERSONNEL POLICIES AND COMPENSATION SCHEDULES FOR EMPLOYEES SHALL BE ADOPTED BY THE BOARD OF DIRECTORS AND SHALL BE COMPARABLE IN SCOPE TO OTHER INSURANCE COMPANIES DOING BUSINESS IN THE STATE AND THE REGION AND TO PROVIDE THAT EMPLOYEES SHALL BE MEMBERS OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; REPEALING SECTION 72-911, IDAHO CODE; AMENDING SECTION 41-291, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION AND TO FURTHER DEFINE THE TERM INSURER; AMENDING SECTION 41-4903, IDAHO CODE, TO PROVIDE A DEFINITION FOR BOARD OF DIRECTORS OF THE STATE INSURANCE FUND; AMENDING SECTION 41-4904, IDAHO CODE, TO PROVIDE THAT THE IDAHO PETROLEUM CLEAN WATER TRUST FUND, SUBJECT TO THE DIRECTION AND SUPERVISION OF THE BOARD OF DIRECTORS OF THE STATE INSURANCE FUND IS HEREBY AUTHORIZED TO INSURE THE OWNERS AND OPERATORS OF PETROLEUM STORAGE TANKS AGAINST CERTAIN COSTS; AMENDING SECTION 41-4908, IDAHO CODE, TO PROVIDE A CORRECT CITATION; AMENDING SECTION 59-904, IDAHO CODE, TO DELETE THE AUTHORITY OF THE GOVERNOR TO APPOINT THE MANAGER OF THE STATE INSURANCE FUND AND TO

PROVIDE THAT THE GOVERNOR SHALL APPOINT MEMBERS OF THE BOARD OF DIRECTORS OF THE STATE INSURANCE FUND; AMENDING SECTION 41-309, IDAHO CODE, TO CLARIFY THAT THE STATE INSURANCE FUND DOES NOT FALL WITHIN THE PROHIBITION AGAINST GOVERNMENT-OWNED INSURERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 72-901, Idaho Code, be, and the same is hereby amended to read as follows:

72-901. BOARD OF DIRECTORS OF STATE INSURANCE FUND -- CREATION OF STATE INSURANCE FUND. (1) There is hereby created as an independent body corporate politic a fund, to be known as the ~~S~~state ~~I~~insurance ~~F~~fund, for the purpose of insuring employers against liability for compensation under this ~~Workmen's~~ worker's ~~C~~compensation ~~L~~law and the ~~O~~occupational ~~D~~disease ~~C~~compensation ~~L~~law and of securing to the persons entitled thereto the compensation provided by said laws. Such fund shall consist of all premiums and penalties received and paid into the fund, of property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon moneys belonging to the fund and deposited or invested as herein provided.

Such fund shall be administered ~~by the state insurance manager~~ without liability on the part of the state. ~~beyond the amount of such fund.~~ Such fund shall be applicable to the payment of losses sustained on account of insurance and to the payment of compensation under the ~~Workmen's~~ worker's ~~C~~compensation ~~L~~law and the ~~O~~occupational ~~D~~disease ~~C~~compensation ~~L~~law and of expenses of administering such fund.

(2) The governor shall appoint five (5) persons to be the board of directors of the state insurance fund. One (1) member shall be a licensed insurance agent, one (1) member shall represent businesses of the state, one (1) member shall be a representative of labor, one (1) member shall be a member of the state senate and one (1) member shall be a member of the state house of representatives. The governor shall appoint a chairman from the five (5) directors. The directors shall be appointed for terms of four (4) years, except that all vacancies shall be filled for the unexpired term, provided that the first two (2) appointments the governor makes after the effective date of this act shall serve a term of two (2) years and the other three (3) members shall serve a term of four (4) years. Thereafter, a member shall serve a term of four (4) years. A certificate of appointment shall be filed in the office of the secretary of state. A majority of the members shall constitute a quorum for the transaction of business or the exercise of any power or function of the state insurance fund and a majority vote of the members shall be necessary for any action taken by the board of directors. The members of the board of directors shall appoint a manager of the state insurance fund who shall serve at their pleasure and such other officers and employees as they may require for the performance of their duties and shall prescribe the duties and compensation of each officer and employee. Members of the board of directors shall receive a compensation for service like that prescribed in section 59-509(h), Idaho Code.

(3) It shall be the duty of the board of directors to direct the policies and operation of the state insurance fund to assure that the state insurance fund is run as an efficient insurance company, remains actuarially sound and maintains the public purposes for which the state insurance fund was created.

(4) The state insurance fund is subject to and shall comply with the provisions of the Idaho insurance code, title 41, Idaho Code. For purposes of regulation, the state insurance fund shall be deemed to be a mutual insurer. The state insurance fund shall not be a member of the Idaho insurance guaranty association.

(5) Nothing in this chapter, or in title 41, Idaho Code, shall be construed to authorize the state insurance fund to operate as an insurer in other states.

SECTION 2. That Section 72-902, Idaho Code, be, and the same is hereby amended to read as follows:

72-902. STATE INSURANCE MANAGER -- POWERS AND DUTIES OF STATE INSURANCE MANAGER. ~~There is hereby created in the office of the governor -- the -- office of state insurance manager, elsewhere in this chapter referred to as~~ The board of directors of the state insurance fund shall appoint a manager of the state insurance fund, whose duties, ~~it~~ subject to the direction and supervision of the board, shall be to conduct the business of the state insurance fund, ~~and the said manager is -- hereby -- vested -- with full authority over said fund,~~ and may do any and all things which are necessary and convenient in the administration thereof, or in connection with the insurance business to be carried on ~~by the manager~~ under the provisions of this chapter. ~~Said~~ The manager shall ~~be appointed by the governor and shall serve during the pleasure of the governor, and~~ have skill and expertise in managing and administering within the insurance industry, shall be of good moral character and shall be bonded in the time, form and manner as prescribed by chapter 8, title 59, Idaho Code.

~~The state insurance manager may acquire real property -- as -- a -- site for -- an -- office building and may construct thereon an office building, or may purchase an office building, and may use for such purposes -- any moneys in the fund that may be available for investment; provided however, -- that no acquisition, construction or purchase may be made hereunder without the prior -- written approval of the board -- of -- examiners. Any -- moneys used pursuant to this section for site acquisition or construction or purchase of an office building shall, when so used, -- constitute an investment of the fund.~~

SECTION 3. That Section 72-906, Idaho Code, be, and the same is hereby amended to read as follows:

72-906. EMPLOYMENT OF ASSISTANTS. The manager~~, -- subject -- to -- the provisions of chapter 53, title 67, Idaho Code,~~ may employ such assistants, experts, statisticians, actuaries, accountants, inspectors, clerks, and other employees as necessary to carry out the provisions of this chapter and to perform the duties imposed upon him by this chapter. The personnel policies and compensation schedules for employees shall be adopted by the board of directors and shall be comparable

in scope to other insurance companies doing business in the state and the region. Employees shall be members of the public employee retirement system.

SECTION 4. That Section 72-911, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 41-291, Idaho Code, be, and the same is hereby amended to read as follows:

41-291. DEFINITIONS. As used in ~~this--chapter~~ sections 41-290 through and including section 41-298, Idaho Code:

(1) Sections 41-290 through 41-298, Idaho Code, shall be known as the Idaho Arson and Fraud Reporting-Immunity Act.

(2) "Authorized agencies" shall mean:

(a) The director, department of law enforcement;

(b) The prosecuting attorney responsible for prosecution in the county where the fire or fraud occurred;

(c) The attorney responsible for the prosecution in the county where the fire or fraud occurred as designated by the attorney general;

(d) The department of insurance.

(3) Solely for the purpose of section 41-292(1), Idaho Code, "authorized agencies" shall also include:

(a) The United States attorney's office when authorized or charged with investigation or prosecution of the fire or fraud in question;

(b) The federal bureau of investigation or any other federal agency, charged with investigation or prosecution of the fire or fraud in question.

(4) "Relevant" means information having any tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more probable or less probable than it would be without the evidence.

(5) Material will be "deemed important," if within the sole discretion of the "authorized agency," such material is requested by the "authorized agency."

(6) "Action," as used in this statute, shall include nonaction or the failure to take action.

(7) "Immunity" means that no civil action may arise against any person for furnishing information pursuant to section 41-248, 41-258, 41-290, 41-292, 41-296 or 41-297, Idaho Code, where actual malice on the part of the insurance company, department of insurance, state fire marshal, authorized agency, their employees or agents, is not present.

(8) "Financial loss" includes, but is not limited to, loss of earnings, out-of-pocket and other expenses, repair and replacement costs and claims payments.

(9) "Person" means a natural person, company, corporation, unincorporated association, partnership, professional corporation and any other legal entity.

(10) "Practitioner" means a licensee of this state authorized to practice medicine and surgery, psychology, chiropractic, law or any other licensee of the state whose services are compensated, directly

or indirectly, by insurance proceeds, or a licensee similarly licensed in other states and nations or the practitioner of any nonmedical treatment rendered in accordance with a recognized religious method of healing.

(11) "Statement" includes, but is not limited to, any notice statement, any statement submitted on applications for insurance, proof of claim, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bills for services, diagnosis, prescription, hospital or doctor records, X-rays, test results or other evidence of loss, injury or expense, whether oral, written or computer generated.

(12) "Insurer" shall mean any insurance company contemplated by title 41, Idaho Code, any business operating as a self-insured for any purpose, the state insurance fund, and any self-insured as contemplated by title 72, Idaho Code.

SECTION 6. That Section 41-4903, Idaho Code, be, and the same is hereby amended to read as follows:

41-4903. DEFINITIONS. For the purposes of this chapter:

(1) "Above ground storage tank" means any one (1) or a combination of tanks, including pipes connected thereto, that is used to contain an accumulation of petroleum or petroleum products, and the volume of which, including the volume of pipes connected thereto, is less than ten percent (10%) beneath the surface of the ground. This term does not include a heating tank, farm tank or residential tank or any tank with a capacity of one hundred ten (110) gallons or less.

(2) "Accidental release" means any sudden or nonsudden release of petroleum from a storage tank that results in a need for corrective action or compensation for bodily injury or property damage neither expected nor intended by the tank owner or operator.

(3) "Administrator" means a person, other than the trustee, employed by the trustee to administer the Idaho petroleum clean water trust fund.

(4) "Application fee" means the amount paid or payable by an owner or operator applying for a contract of insurance with the trust fund to offset the costs of issuing contracts of insurance and other costs of administering this fund.

(5) "Board" means the board of directors of the state insurance fund as established by section 72-901, Idaho Code.

(6) "Bodily injury" means any bodily injury, sickness, disease or death sustained by any person and caused by an occurrence defined in subsection (~~18~~9) of this section.

(~~6~~7) "Contamination" means the presence of petroleum or petroleum products in surface or subsurface soil, surface water, or ground water.

(~~7~~8) "Commission" means the state tax commission of the state of Idaho.

(~~8~~9) "Corrective action" means those actions as are reasonably necessary to satisfy applicable federal and state standards in the event of a release into the environment from a petroleum storage tank. Corrective action includes initial corrective action response or actions consistent with a remedial action to clean up contaminated

soil and ground water or address residual effects after initial corrective action is taken, as well as actions necessary to monitor, assess and evaluate a release. Corrective action also includes the cost of removing a tank which is releasing or has been releasing petroleum products and the release cannot be corrected without removing the tank; but corrective action does not include the cost of replacing this tank with another tank.

(~~9~~10) "Department" means the department of insurance of the state of Idaho.

(~~10~~1) "Director" means the director of the department of insurance.

(~~11~~2) "Farm tank" means any tank with a capacity of more than one hundred ten (110) gallons but less than one thousand one hundred (1,100) gallons situated above ground or underground which is used for storing motor fuel for noncommercial purposes and which is located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

(~~12~~3) "Free product" means petroleum or petroleum products in the nonaqueous phase, (e.g., liquid not dissolved in water).

(~~13~~4) "Fund" or "trust fund" means the Idaho petroleum clean water trust fund.

(~~14~~5) "Heating tank" means any tank with a capacity of more than one hundred ten (110) gallons situated above ground or underground which is used for storing heating oil for consumptive use on the premises where stored.

(~~15~~6) "Legal defense costs" means any expense that an owner or operator or the trust fund incurs in defending against claims or actions brought by the federal environmental protection agency or a state agency to require corrective action or to recover the costs of corrective action; or by or on behalf of a third party for bodily injury or property damage caused by a release.

(~~16~~7) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2427A, Idaho Code. If a person subject to the fee imposed by section 41-4908(6), Idaho Code, is not required to obtain a distributor's license under the provisions of chapter 24, title 63, Idaho Code, such person shall apply to the commission for a limited license for the purpose of complying with the requirements of this chapter. Such a limited license shall not be valid for any other purpose. No bond shall be required for a limited license. A holder of a limited license is a "licensed distributor" for the purposes of filing reports, paying fees and other actions necessary to the proper administration and enforcement of this chapter.

(~~17~~8) "Manager" means the duly appointed manager of the state insurance fund of the state of Idaho.

(~~18~~9) "Noncommercial purposes" means not for resale, with respect to motor fuels.

(~~19~~20) "Occurrence" means an accident, including continuous or repeated exposure to conditions, which resulted in a release into the environment of petroleum products from a petroleum storage tank.

(~~20~~1) "Operator" means any person in control, or having responsi-

bility for, the daily operations of a petroleum storage tank.

(2~~1~~2) "Owner" means the owner of a petroleum storage tank, except that "owner" does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect the owner's security interest in the tank.

(2~~2~~3) "Person" means any corporation, association, partnership, one (1) or more individuals, or any governmental unit, or agency thereof, other than federal or state agencies.

(2~~3~~4) "Petroleum" and/or "petroleum products" mean crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure (i.e., at sixty (60) degrees fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute). The term includes motor gasoline, gasohol, other alcohol blended fuels, diesel fuel, heating oil and aviation fuel.

(2~~4~~5) "Property damage" means injury or destruction to tangible property caused by an occurrence.

(2~~5~~6) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into ground water, surface water, or surface or subsurface soils.

(2~~6~~7) "Residential tank" means any tank with a capacity of more than one hundred ten (110) gallons but less than one thousand one hundred (1,100) gallons situated above ground or underground which is used for storing motor fuel for noncommercial purposes and which is located on property used primarily for dwelling purposes.

(2~~7~~8) "Site" means a single parcel of property where petroleum or petroleum products are stored in a petroleum storage tank and includes all contiguous land, structures, other appurtenances, surface water, ground water, surface and subsurface soil, and subsurface strata within and beneath the property boundary.

(2~~8~~9) "State" means the state of Idaho or any office, department, agency, authority, commission, board, institution, hospital, college, university or other instrumentality thereof.

(2~~9~~30) "Tank" means a stationary device designed to contain an accumulation of petroleum or petroleum products and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

(3~~0~~1) "Trustee" means the trustee of the Idaho petroleum clean water trust fund, who for the purposes of this chapter shall be the manager of the state insurance fund of the state of Idaho.

(3~~1~~2) "Underground storage tank" means any one (1) or combination of tanks, including underground pipes connected thereto, that is used to contain an accumulation of petroleum or petroleum products, and the volume of which, including the volume of underground pipes connected thereto, is ten percent (10%) or more beneath the surface of the ground. This term does not include any:

(a) Farm or residential tank of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial purposes;

(b) Tank used solely for storing heating oil for consumptive use on the premises where stored;

(c) Septic tank;

(d) Pipeline facility including gathering lines regulated under:

(i) The natural gas pipeline safety act of 1968 (49 U.S.C.

app. 1671, et seq.); or

(ii) The hazardous liquid pipeline safety act of 1979 (49 U.S.C. app. 2001, et seq.); or

(iii) State laws comparable to the provisions of the law referred to in paragraph (d)(i) or (d)(ii) of this subsection as an intrastate pipeline facility;

(e) Surface impoundment, pit, pond or lagoon;

(f) Storm water or wastewater collection system;

(g) Flow-through process tank;

(h) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;

(i) Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor;

(j) Tanks with a capacity of one hundred ten (110) gallons or less.

The term "underground storage tank" does not include any pipes connected to any tank which is described in paragraphs (a) through (i) of this definition.

(3~~2~~3) "Underground storage tank regulations" means regulations for petroleum storage tanks promulgated by the United States environmental protection agency (EPA) pursuant to subtitle I of the solid waste disposal act, as amended by the resource conservation and recovery act, regulations promulgated by the state of Idaho as part of a state program for underground storage tank regulation under subtitle I, or other regulations affecting underground storage tank operations and management, including the uniform fire code adopted by the state of Idaho.

SECTION 7. That Section 41-4904, Idaho Code, be, and the same is hereby amended to read as follows:

41-4904. CREATION, AUTHORIZATION AND MANAGEMENT OF THE IDAHO PETROLEUM CLEAN WATER TRUST FUND. (1) The Idaho petroleum clean water trust fund is hereby created, subject to the direction and supervision of the board, and the manager of the state insurance fund is hereby authorized to utilize this trust fund for the purpose of insuring governmental and private entities who are owners and operators of petroleum storage tanks against the costs of corrective action and compensating third parties that are legally entitled to receive compensation for bodily injury and property damage arising out of accidental releases of petroleum from petroleum storage tanks covered by a contract of insurance between the owner or operator and the trust fund. The manager shall be the trustee of this fund, and shall appoint an administrator of this fund who shall be an employee of the state insurance fund.

(2) Nothing in this chapter shall enlarge or otherwise adversely affect the legal liability of any legal entity insured by the trust fund, and any immunity or other bar to a civil lawsuit under Idaho or federal law shall remain in effect. The fact that the trust fund insures the legal liability of any legal entity and thus may relieve the entity or an employee of the entity from the payment of any judgment arising from a civil lawsuit, shall not be communicated to the

trier of fact in such a lawsuit.

(3) The trust fund shall consist of all application fees and all transfer fees collected pursuant to section 41-4908, Idaho Code, all other moneys received and paid into the trust fund, property and securities acquired by or through the use of money belonging to the trust fund, money loaned to the trust fund under the terms and agreements of a subordinated note of indebtedness or borrowed surplus as hereinafter defined and authorized, and of interest earned on money and securities owned or in the possession of the trust fund under an agreement that such investment earnings can accrue to the benefit of the trust fund.

(4) The trust fund shall have the powers and privileges of a nonprofit corporate entity and in its name may sue and be sued in any court of competent jurisdiction, and may lease and maintain offices and space for its departmental and operational facilities, subject to the provisions of chapters 6 and 7, title 41, Idaho Code.

(5) (a) The personnel costs, operating expenditures and capital outlay budget of the trust fund shall be subject to review and approval in the appropriation of the state insurance fund, and it is the intent of this chapter that the trust fund be a self-supporting insurance fund, so that no appropriations, loans, or other transfers of state funds need to be made to the trust fund except as follows:

(i) A temporary line of credit for the initial start-up costs of the trust fund may be obtained as provided in paragraph (b) of this subsection; and

(ii) A temporary line of credit to offset any temporary shortages in the operating fund balance of the trust fund may be obtained as provided in paragraph (b) of this subsection.

(b) There is hereby established a temporary line of credit to be drawn from the state general account to the trust fund account in the amount of one million dollars ($1,000,000). This amount of money is continuously appropriated for the purposes of this chapter. The temporary line of credit may be drawn upon by the trust fund only during the first eighteen (18) months after the effective date of this chapter and only for the purpose of financing the initial start-up costs of the trust fund and any temporary shortages in the operating fund balance of the trust fund. The manager may draw upon all or part of the temporary line of credit, as shall be required. The money advanced from the state general account shall be repaid with interest from surplus moneys in the trust fund to the general account within one (1) year from the date the trust fund commences to issue contracts of insurance. Interest of ten percent (10%) per annum shall be calculated upon the principal amount outstanding each month until repaid.

(c) In the event the trust fund is unable to repay the funds drawn from the state general account under the temporary line of credit established under paragraph (b) of this subsection due to the dissolution of the trust fund pursuant to a court order, then an amount necessary to repay the line of credit shall be appropriated by the next regular session of the state legislature.

(d) Funds obtained from the temporary line of credit shall constitute a subordinated indebtedness subject to the provisions of section 41-4943, Idaho Code.

(6) The manager of the state insurance fund, as trustee of the trust fund, shall enter into a management and administrative contract with the state insurance fund to provide the following services to the trust fund:

(a) Administrative functions including the hiring of qualified personnel and the payment of salaries and wages earned, plus recordkeeping for the personnel hired to provide services for the trust fund.

(b) Accounting and recordkeeping of all receipts and disbursements of the trust fund.

(c) Underwriting functions of the trust fund to issue contracts of liability insurance and charge appropriate application fees under section 41-4908, Idaho Code, for such contracts and keep accurate statistical records.

(d) Claims handling functions of the trust fund to process and pay appropriate claims in a prompt, fair and reasonable manner.

(e) Auditing functions of the trust fund to maintain accurate records of receipts and disbursements by the trust fund and accurate reporting of statistics by owners or operators of storage tanks covered by a contract of insurance issued by the trust fund.

(f) Actuarial functions of the trust fund to maintain credible and viable statistics, sufficient operating fund balances, and appropriate loss reserves.

(g) Computer and data processing functions to assist the trust fund in maintaining complete and accurate records in a timely manner and issue loss payments and other disbursements, as well as provide individual statistics and records of storage tanks covered by a contract of insurance issued by the trust fund.

(h) Computer programming functions to maintain a proficient and current data processing system for the trust fund.

(i) Legal services for the trust fund.

(j) Any and all other functions the manager of the state insurance fund as trustee deems prudent and reasonable to assure the successful operation of the trust fund.

(7) The Idaho petroleum clean water trust fund shall be administered without liability on the part of the state insurance fund or the state of Idaho beyond the amount of said trust fund.

(8) The administrator, subject to the approval of the manager of the state insurance fund as trustee, shall have the power to receive and account for all moneys paid into the trust fund, accept and evaluate applications for insurance coverage and issue the contracts of insurance and evaluate, investigate and adjust claims made against the trust fund and make agreements for corrective actions or compensation to third parties for bodily injury or property damage those parties may be legally entitled to receive from the trust fund in accordance with the provisions of this chapter.

(9) The administrator, with the approval of the trustee, shall establish underwriting procedures to issue contracts of insurance and claim procedures. The administrator shall be given notice of all applications, hearings and proceedings involving the rights of the trust fund and shall represent the trust fund in all proceedings. The administrator's decisions shall be written, and shall include all reasons for his decisions and shall be subject to judicial review in the

district court of Ada county; provided, however, that the administrator and the trust fund shall not be liable for alleged bad faith or other legal theories based on any method or timing of the claims processed on his decision.

(10) The manager of the state insurance fund may employ legal counsel or obtain legal counsel through the attorney general concerning all legal matters arising out of the existence and operation of the trust fund, including claims made against the contracts of insurance issued by the administrator of the trust fund.

(11) The manager of the state insurance fund may also employ such employees or contract for such services as are necessary to assist in the administration of the trust fund, and all such administrative expenses incurred by the state insurance fund for the benefit of the trust fund shall be reimbursed by the trust fund.

(12) The administrator may, in his official capacity, sue and be sued in all courts of the state, and shall be entitled to a defense by the state of Idaho for any alleged acts of negligence that may arise out of his official duties as administrator and/or as an employee of the state of Idaho.

SECTION 8. That Section 41-4908, Idaho Code, be, and the same is hereby amended to read as follows:

41-4908. SOURCE OF TRUST FUND -- APPLICATION FEES -- APPLICATION FOR ENROLLMENT -- TRANSFER FEES. (1) Every owner or operator of an underground storage tank may, if he desires to apply to the trust fund to insure the underground tank, make application for and pay into the trust fund an initial application fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank for which application for coverage is made.

(2) Every owner or operator of an above ground storage tank may, if he desires to apply to the trust fund to insure the above ground tank, make application for and pay into the trust fund an initial application fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank for which application for coverage is made.

(3) Every owner or operator of a farm tank or residential tank may, if he desires to apply to the trust fund to insure the tank, make application for and pay into the trust fund an initial application fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank for which application for coverage is made.

(4) Every owner or operator of a heating tank may, if he desires to apply to the trust fund to insure the tank, make application for and pay into the trust fund an initial application fee set by the administrator, but not to exceed five dollars ($5.00) for each tank for which application for coverage is made.

(5) The application for insurance shall be made to the administrator on forms furnished and prescribed by him for the purpose of eliciting reasonably available information as to the type and use of the storage tank, the type of business enterprise of the tank owner or operator, the age of the storage tank, the materials used in the construction of the tank and the inside and outside protective coatings and other corrosion protective measures, leak detection methods, spill

and overfill prevention methods of the tank, the location of the tank and its proximity to roads and buildings, the foundation and type of material used as a bedding and fill for the tank, any available inspection records of the tank including the gallons of petroleum products entered into the tank and the gallon dispersements from the tank, and other information that is reasonably prudent in order to obtain a sufficient body of statistical data to determine the relative hazards of various categories of tanks, the potential that future leaks or discharges may occur, and the conditions under which cleanup costs and personal injury and property damage costs may occur and vary in the severity of the release and the resultant costs to the trust fund.

(6) The administrator shall act upon the application for insurance with all reasonable promptness, and he shall make such investigations of the applicant as he deems advisable to determine if the information contained in the application for insurance is accurate and complete. The administrator shall determine if the applicant's storage tanks meet all the eligibility requirements and promptly notify the applicant of the acceptance or nonacceptance of the application for insurance. The absence of unknown data requested on the application shall not preclude an applicant's acceptance for coverage by the trust fund, if the applicant is otherwise eligible for insurance under this chapter.

(7) In addition to the application fees received by the trust fund pursuant to this section, the trust fund shall receive the revenue produced by the imposition of a "transfer fee" of one cent ($.01) per gallon on the delivery or storage of all petroleum products as defined in subsection (2~~3~~4) of section 41-4903, Idaho Code, delivered or stored within the state of Idaho. This transfer fee is hereby imposed upon the first licensed distributor who transfers title to a petroleum product to another legal entity within this state for the privilege of engaging in the delivery or storage of petroleum products whose delivery or storage may present the danger of a discharge into the environment and thus create the liability to be funded. The fee imposed by this subsection shall not apply to (a) petroleum or petroleum products which are first delivered or stored in this state in a container of fifty-five (55) gallons or less if such container is intended to be transferred to the ultimate consumer of the petroleum or petroleum products or (b) petroleum or petroleum products delivered or stored in this state for the purpose of packaging or repackaging into containers of fifty-five (55) gallons or less if such container is intended to be transferred to the ultimate consumer of the petroleum or petroleum products.

(8) The transfer fee shall be collected by the commission on all petroleum products delivered or stored within this state after April 1, 1990. This transfer fee shall be in addition to any excise tax imposed on gasoline and/or aircraft engine fuel or other petroleum products and shall be remitted to the commission with the distributor's monthly report as required in section 63-2406, Idaho Code. The distributor may deduct from his monthly report those gallons of petroleum products returned to a licensed distributor's refinery or pipeline terminal storage or exported from the state when supported by proper documents approved by the commission. For the purpose of carry-

ing out its duties under the provisions of this chapter, the commission shall have the powers and duties provided in sections 63-3038, 63-3039, 63-3042 through 63-3066, 63-3068, 63-3071, and 63-3074 through 63-3078, Idaho Code, which sections are incorporated by reference herein as though set out verbatim.

(9) No person shall be excused from liability for any duty or fee imposed in this chapter for failure to obtain a distributor's license.

(10) The director shall certify to the commission when the unencumbered balance in the trust fund equals thirty million dollars ($30,000,000). Effective the first day of the second month following the date of such certification, the imposition of the transfer fee shall be suspended. Thereafter, the director shall certify to the commission when the unencumbered balance in the trust fund equals twenty million dollars ($20,000,000). Effective the first day of the second month following the date of such certification, the imposition of the transfer fee shall be reinitiated.

SECTION 9. 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 labor,
Director of the department of water resources,
Director of the department of law enforcement,
Director of the department of commerce,
Director of the department of juvenile corrections,
The state historic preservation officer,
~~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,
Members of the board of directors of the state insurance fund.

(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 10. That Section 41-309, Idaho Code, be, and the same is hereby amended to read as follows:

41-309. GOVERNMENT-OWNED INSURERS NOT TO BE AUTHORIZED. No

insurer the voting control or ownership of which is held in whole or substantial part by any government or governmental agency, or which is operated for or by any such government or agency, other than the Idaho state insurance fund, shall be authorized to transact insurance in this state. Membership in a mutual insurer, or subscribership in a reciprocal insurer, or ownership of stock of an insurer by the alien property custodian or similar official of the United States, or supervision of an insurer by public insurance supervisory authority shall not be deemed to be an ownership, control, or operation of the insurer for the purposes of 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 April 3, 1998.

SENATE JOINT RESOLUTIONS

(S.J.R. No. 105)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 3, ARTICLE VI, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO DISQUALIFICATION OF CERTAIN PERSONS, TO DELETE THE PROHIBITION OF A PERSON BEING UNDER GUARDIANSHIP FROM VOTING, SERVING AS JUROR OR HOLDING CIVIL OFFICE; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Section 3, Article VI, of the Constitution of the State of Idaho be amended to read as follows:

> SECTION 3. DISQUALIFICATION OF CERTAIN PERSONS. No person is permitted to vote, serve as a juror, or hold any civil office who ~~is under guardianship, or who~~ has, at any place, been convicted of a felony, and who has not been restored to the rights of citizenship, or who, at the time of such election, is confined in prison on conviction of a criminal offense.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 3, Article VI, of the Constitution of the State of Idaho be amended to delete the prohibition of a person being under guardianship from voting, serving as a juror or holding any civil office?".

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 March 9, 1998
Adopted by the House March 18, 1998

(S.J.R. No. 106)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 2, ARTICLE VIII, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO PROVIDING FOR A FUND WHICH SHALL CONSIST OF FUNDS PROVIDED BY LAW TO GUARANTEE THE DEBT OF SCHOOL DISTRICTS IN ACCORDANCE WITH LAW, TO PROVIDE THAT THE STATE MAY GUARANTEE THE DEBT OF SCHOOL DISTRICTS AND MAY GUARANTEE DEBT INCURRED TO REFUND THE SCHOOL DISTRICT DEBT, TO PROVIDE THAT ANY DEBT GUARANTY, THE SCHOOL DISTRICT DEBT GUARANTEED THEREBY, OR ANY BORROWING OF THE STATE UNDERTAKEN TO FACILITATE THE PAYMENTS OF THE STATE'S OBLIGATION UNDER ANY DEBT GUARANTY SHALL NOT BE INCLUDED AS A DEBT OF THE STATE FOR THE PURPOSES OF THE LIMITATION OF SECTION 1, ARTICLE VIII, OF THE CONSTITUTION OF THE STATE OF IDAHO, TO PROVIDE THAT THE LEGISLATURE MAY PROVIDE BY LAW THAT REIMBURSEMENT TO THE STATE SHALL BE OBTAINED FROM MONEYS WHICH OTHERWISE WOULD BE USED FOR THE SUPPORT OF THE EDUCATIONAL PROGRAMS OF THE SCHOOL DISTRICT WHICH INCURRED THE DEBT WITH RESPECT TO WHICH A PAYMENT UNDER THE STATE'S GUARANTY PURSUANT TO THIS SECTION WAS MADE; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Section 2, Article VIII, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 2. LOAN OF STATE'S CREDIT PROHIBITED -- HOLDING STOCK IN CORPORATION PROHIBITED -- DEVELOPMENT OF WATER POWER. (1) The credit of the state shall not, in any manner, be given, or loaned to, or in aid of any individual, association, municipality or corporation; nor shall the state directly or indirectly, become a stockholder in any association or corporation, provided, that the state itself may control and promote the development of the unused water power within this state.

(2) Notwithstanding the provisions of subsection (1), there is hereby created the public school guarantee fund which shall consist of funds provided by law to guarantee the debt of school districts in accordance with law. The state may guarantee the debt of school districts and may guarantee debt incurred to refund the school district debt. Any debt guaranty, the school district debt guaranteed thereby, or any borrowing of the state undertaken to facilitate the payments of the state's obligation under any debt guaranty shall not be included as a debt of the state for the purposes of the limitation of Section 1 of Article VIII. The legislature may provide by law that reimbursement to the state shall be obtained from moneys which otherwise would be used for the support of the educational programs of the school district

which incurred the debt with respect to which a payment under the state's guaranty pursuant to this section was made.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 2, Article VIII, of the Constitution of the State of Idaho be amended to provide for a fund which shall consist of funds provided by law to guarantee the debt of school districts in accordance with law, to provide that the state may guarantee the debt of school districts and may guarantee debt incurred to refund the school district debt, to provide that any debt guaranty, the school district debt guaranteed thereby, or any borrowing of the state undertaken to facilitate the payments of the state's obligation under any debt guaranty shall not be included as a debt of the state for the purposes of the limitation of Section 1, Article VIII of the constitution of the state of Idaho, to provide that the legislature may provide by law that reimbursement to the state shall be obtained from moneys which otherwise would be used for the support of the educational programs of the school district which incurred the debt with respect to which a payment under the state's guaranty pursuant to this section was made?".

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 March 9, 1998
Adopted by the House March 20, 1998

(S.J.R. No. 107)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 1, ARTICLE VIII, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO LIMITATIONS ON PUBLIC INDEBTEDNESS, TO DELETE OBSOLETE LANGUAGE AND AMOUNTS TO CLARIFY LIMITS ON STATE INDEBTEDNESS AND LIABILITIES, TO PROVIDE FOR PUBLICATION OF NOTICE TO CREATE STATE INDEBTEDNESS, TO EXCEPT FROM THE SECTION ORDINARY OPERATING EXPENSES AND DEBTS OR LIABILITIES REPAID WITHIN THE FISCAL YEAR, TO PROVIDE THAT DEBTS AND LIABILITIES OF CERTAIN INDEPENDENT PUBLIC BODIES CORPORATE AND POLITIC CREATED BY LAW AND WHICH HAVE NO POWER TO LEVY TAXES OR OBLIGATE THE GENERAL FUND OF THE STATE ARE NOT STATE DEBTS AND TO PROVIDE THIS CONSTITUTIONAL AMENDMENT SHALL NOT MAKE ILLEGAL THOSE TYPES OF FINANCIAL TRANSACTIONS THAT WERE LEGAL ON OR BEFORE NOVEMBER 3, 1998; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Section 1, Article VIII, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 1. LIMITATION ON PUBLIC INDEBTEDNESS. The legislature shall not in any manner create any debt or debts, liability or liabilities, ~~which shall singly or in the aggregate, exclusive of the debt of the territory at the date of its admission as a state, and exclusive of debts or liabilities incurred subsequent to January 1, 1911, for the purpose of completing the construction and furnishing of the state capitol at Boise, Idaho, and exclusive of debt or debts, liability or liabilities incurred by the eleventh session of the legislature of the state of Idaho, exceed in the aggregate the sum of two million dollars ($2,000,000),~~ except in case of war, to repel an invasion, or suppress an insurrection, unless the same shall be authorized by law, for some single object or work, to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest on such debt or liability as it falls due, and also for the payment and discharge of the principal of such debt or liability within twenty ~~(20)~~ years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged. But no such law shall take effect until at a general election it shall have been submitted to the people, and shall have received a majority of all the votes cast for or against it at such election, and all moneys raised by the authority of such laws shall be applied only to specified objects therein stated or to the payment of the debt thereby created, and such law shall be published ~~in at least one newspaper in each county or city, and county, if one be published therein, throughout the state for three (3) months next preceding~~ prior to the general election at which it is submitted to the people, in the same manner as amendments to this constitution are published. The legislature may at any time after the approval of such law, by the people, if no debts shall have been contracted in pursuance thereof, repeal the same.

This section shall not apply to liabilities incurred for ordinary operating expenses, nor shall it apply to debts or liabilities that are repaid by the end of the fiscal year. The debts or liabilities of independent public bodies corporate and politic created by law and which have no power to levy taxes or obligate the general fund of the state are not debts or liabilities of the state of Idaho. The provisions of this section shall not make illegal those types of financial transactions that were legal on or before November 3, 1998.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 1, Article VIII, of the Constitution of the State

of Idaho be amended to delete obsolete language and amounts to clarify limits on state debts and liabilities, to provide for publication of notice of intent to create state indebtedness, to except from the section ordinary operating expenses and debts or liabilities that will be repaid within the fiscal year, to provide that debts and liabilities of independent public bodies corporate and politic created by law and which have no power to levy taxes or obligate the general fund of the state are not debts of the State of Idaho and to provide these amendments shall not make illegal those types of financial transactions that were previously legal under this section of the Idaho Constitution?".

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 March 9, 1998
Adopted by the House March 19, 1998

HOUSE JOINT RESOLUTIONS

(H.J.R. No. 6)

A JOINT RESOLUTION

PROPOSING AMENDMENTS TO SECTION 4, ARTICLE IX, AND SECTION 8, ARTICLE IX, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND AND ENDOWMENT LANDS, TO CHANGE THE NAME OF THE PUBLIC SCHOOL FUND TO THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND, TO PROVIDE THAT THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND SHALL INCLUDE PROCEEDS FROM THE SALE OF SCHOOL LANDS AND AMOUNTS ALLOCATED FROM THE PUBLIC SCHOOL EARNINGS RESERVE FUND, TO PROVIDE THAT PROCEEDS FROM THE SALE OF SCHOOL LANDS MAY BE DEPOSITED INTO A LAND BANK FUND TO BE USED TO ACQUIRE OTHER LANDS WITHIN THE STATE, TO PROVIDE THAT IF PROCEEDS ARE NOT USED TO ACQUIRE OTHER LANDS WITHIN A TIME PROVIDED BY THE LEGISLATURE THE PROCEEDS SHALL BE DEPOSITED INTO THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND ALONG WITH EARNINGS AND TO CHANGE THE WORD DISPOSAL TO THE WORD SALE IN THE CONTEXT OF THE DISPOSITION OF ENDOWMENT LANDS; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Section 4, Article IX, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 4. PUBLIC SCHOOL PERMANENT ENDOWMENT FUND DEFINED. The public school permanent endowment fund of the state shall consist of the proceeds from the sale of such lands as have heretofore been granted, or may hereafter be granted, to the state by the general government, known as school lands, and those granted in lieu of such; lands acquired by gift or grant from any person or corporation under any law or grant of the general government; and of all other grants of land or money made to the state from the general government for general educational purposes, or where no other special purpose is indicated in such grant; all estates or distributive shares of estates that may escheat to the state; all unclaimed shares and dividends of any corporation incorporated under the laws of the state; ~~and~~ all other grants, gifts, devises, or bequests made to the state for general educational purposes; and amounts allocated from the public school earnings reserve fund. Provided however, that

proceeds from the sale of school lands may be deposited into a land bank fund to be used to acquire other lands within the state for the benefit of endowment beneficiaries. If those proceeds are not used to acquire other lands within a time provided by the legislature, the proceeds shall be deposited into the public school permanent endowment fund along with any earnings on the proceeds.

SECTION 2. That Section 8, Article IX, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 8. LOCATION AND DISPOSITION OF PUBLIC LANDS. It shall be the duty of the state board of land commissioners to provide for the location, protection, sale or rental of all the lands heretofore, or which may hereafter be granted to or acquired by the state by or from the general government, under such regulations as may be prescribed by law, and in such manner as will secure the maximum long-term financial return to the institution to which granted or to the state if not specifically granted; provided, that no state lands shall be sold for less than the appraised price. No law shall ever be passed by the legislature granting any privileges to persons who may have settled upon any such public lands, subsequent to the survey thereof by the general government, by which the amount to be derived by the sale, or other disposition of such lands, shall be diminished, directly or indirectly. The legislature shall, at the earliest practicable period, provide by law that the general grants of land made by congress to the state shall be judiciously located and carefully preserved and held in trust, subject to ~~disposal~~ sale at public auction for the use and benefit of the respective object for which said grants of land were made, and the legislature shall provide for the sale of said lands from time to time and for the sale of timber on all state lands and for the faithful application of the proceeds thereof in accordance with the terms of said grants; provided, that not to exceed one hundred sections of state lands shall be sold in any one year, and to be sold in subdivisions of not to exceed three hundred ~~and~~ twenty acres of land to any one individual, company or corporation. The legislature shall have power to authorize the state board of land commissioners to exchange granted or acquired lands of the state on an equal value basis for other lands under agreement with the United States, local units of government, corporations, companies, individuals, or combinations thereof.

SECTION 3. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 4, Article IX, and Section 8, Article IX, of the Constitution of the State of Idaho be amended as follows:

1. To change the name of the Public School Fund to the Public School Permanent Endowment Fund;

2. To provide that the Public School Permanent Endowment Fund shall include proceeds from the sale of school lands and amounts allocated from the Public School Earnings Reserve Fund;

3. To provide an exception that proceeds from the sale of school lands may be deposited into a Land Bank Fund to be used to acquire other lands within the state for the benefit of endowment beneficiaries, but if those proceeds are not used to acquire other lands within a time provided by the legislature the proceeds of the sale shall be deposited into the Public School Permanent Endowment Fund along with earnings on the proceeds; and

4. To change the word disposal to sale in reference to the disposition of certain lands?".

SECTION 4. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 5. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the House February 25, 1998
Adopted by the Senate March 17, 1998

(H.J.R. No. 8)

A JOINT RESOLUTION

PROPOSING AMENDMENTS TO SECTION 3, ARTICLE IX, AND SECTION 11, ARTICLE IX, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND, TO CHANGE THE NAME OF THE PUBLIC SCHOOL FUND TO THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND, TO PROVIDE THAT EARNINGS OF THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND SHALL BE DEPOSITED INTO THE PUBLIC SCHOOL EARNINGS RESERVE FUND AND DISTRIBUTED TO SCHOOLS, COUNTIES AND SCHOOL DISTRICTS, TO PROHIBIT TRANSFERRING ANY PART OF THE PERMANENT ENDOWMENT FUND PRINCIPAL, TO PROVIDE THAT FUNDS SHALL NOT BE APPROPRIATED BY THE LEGISLATURE FROM THE PUBLIC SCHOOL EARNINGS RESERVE FUND EXCEPT TO PAY ADMINISTRATIVE COSTS INCURRED MANAGING THE ASSETS OF THE PUBLIC SCHOOL ENDOWMENT INCLUDING, BUT NOT LIMITED TO, REAL PROPERTY AND MONETARY ASSETS, TO PROVIDE THAT THE STATE TREASURER IS THE CUSTODIAN OF THE FUNDS, TO PROVIDE THAT AS DEFINED AND PRESCRIBED BY LAW, THE STATE SHALL SUPPLY LOSSES INCURRED BY THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND, EXCEPTING MONEYS ALLOCATED FROM THE PUBLIC SCHOOL EARNINGS RESERVE FUND AND TO PROVIDE FOR INVESTING OF PERMANENT ENDOWMENT FUNDS; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Section 3, Article IX, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 3. PUBLIC SCHOOL PERMANENT ENDOWMENT FUND TO REMAIN INTACT. The public school permanent endowment fund of the state shall forever remain inviolate and intact; the ~~interest thereon only~~ earnings of the public school permanent endowment fund shall be ~~expended~~ deposited into the public school earnings reserve fund and distributed in the maintenance of the schools of the state, and ~~shall be distributed~~ among the ~~several~~ counties and school districts of the state in such manner as may be prescribed by law. No part of ~~this~~ the public school permanent endowment fund~~,~~ principal ~~or interest,~~ shall ever be transferred to any other fund, or used or appropriated except as herein provided. Funds shall not be appropriated by the legislature from the public school earnings reserve fund except as follows: the legislature may appropriate from the public school earnings reserve fund administrative costs incurred in managing the assets of the public school endowment including, but not limited to, real property and monetary assets. The state treasurer shall be the custodian of ~~this~~ these funds, and the same shall be securely and profitably invested as may be by law directed. As defined and prescribed by law, t~~T~~he state shall supply ~~all~~ losses ~~thereof that may in any manner occur~~ to the public school permanent endowment fund, excepting losses on moneys allocated from the public school earnings reserve fund.

SECTION 2. That Section 11, Article IX, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 11. ~~LOANING~~ INVESTING PERMANENT ENDOWMENT FUNDS. The permanent endowment funds other than funds arising from the disposition of university lands belonging to the state, ~~shall~~ may be ~~loaned on~~ invested in United States, state, county, city, village, or school district bonds or state warrants or ~~on such~~ other investments ~~as may be permitted by law under such regulations as the legislature may provide~~ in which a trustee is authorized to invest pursuant to state law.

SECTION 3. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 3, Article IX, and Section 11, Article IX, of the Constitution of the State of Idaho be amended as follows:

1. To change the name of the Public School Fund to the Public School Permanent Endowment Fund;

2. To provide that the earnings of that fund shall be deposited into the Public School Earnings Reserve Fund and distributed in the maintenance of the schools and among the counties and school districts of the state;

3. To provide that no part of the Public School Permanent Endowment Fund principal shall be transferred, used or appropriated to any

other fund;

4. To prohibit legislative appropriations from the funds except that the legislature may appropriate moneys from the Public School Earnings Reserve Fund to pay for administrative costs incurred managing the assets of the public school endowment including, but not limited to, real property and monetary assets;

5. To provide that the state treasurer is the custodian of these funds;

6. To provide that the state shall supply losses incurred by the Public School Permanent Endowment Fund, excepting losses on moneys allocated from the Public School Earnings Reserve Fund; and

7. To provide that permanent endowment funds may be invested, rather than loaned, in investments in which a trustee is authorized to invest pursuant to state law?".

SECTION 4. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 5. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the House February 25, 1998
Adopted by the Senate March 17, 1998

SENATE JOINT MEMORIALS

(S.J.M. No. 106)

A JOINT MEMORIAL
TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-fourth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the vast majority of the individual states of the United States have constitutional provisions which require legislative bills to consist of a single subject; and

WHEREAS, this provision has proven to be a vital safeguard of citizens' rights and citizens' awareness of pending legislation; and

WHEREAS, what has proven to be so successful with the vast majority of our states, the bulwark of republican government, should work equally well for the national government.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urgently request the Congress of the United States to immediately prepare a proposed constitutional amendment to the Constitution of the United States to limit congressional bills to a single subject, except for recodification measures, and to submit such proposed amendment to the several states for ratification.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, to the congressional delegation representing the State of Idaho in the Congress of the United States, and to the presiding officers of each House of each state of these United States.

Adopted by the Senate February 24, 1998
Adopted by the House March 17, 1998

HOUSE JOINT MEMORIALS

(H.J.M. No. 9)

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-fourth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Idaho was admitted to the Union on July 3, 1890; and

WHEREAS, the Idaho Admission Bill, 26 Stat. L. 215, ch. 656, provides that the Congress would grant certain lands to the state for the support of public schools and did grant those lands; and

WHEREAS, Section 5 of the Idaho Admission Bill, 26, Stat. L. 215, ch. 656, requires that the proceeds from the sale of those lands shall constitute a permanent school fund, only the interest of which can be used to support public schools; and

WHEREAS, the restrictions on the use of proceeds and interest are inconsistent with modern concepts of prudent investment; and

WHEREAS, the restrictions can be modified to reflect modern business practices without undue risk to the state or the beneficiaries of the funds.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Congress expeditiously amend the Idaho Admissions Bill, 26 Stat. L. 215, ch. 656, as follows:

SECTION 5. SALE OR LEASE OF SCHOOL LANDS. (a) Except as provided in subsection (b) all lands herein granted for educational purposes shall be ~~disposed of~~ sold only at public sale, the proceeds to constitute a ~~permanent~~ public school permanent endowment fund~~,~~. Proceeds from the sale of school lands may be deposited into a land bank fund to be used to acquire other lands in the state for the benefit of the endowment beneficiaries, under such laws as may be prescribed by the legislature. If the land sale proceeds are not used to acquire other lands in the state within a time provided by the legislature, the proceeds and any earnings on the proceeds shall be deposited into the public school permanent endowment fund. T~~t~~he ~~interest~~ earnings of ~~which only~~ the public school permanent endowment fund shall be deposited into an earnings reserve fund and distributed ~~expended~~ in the support of ~~said~~ public schools of the state in the manner prescribed

by law. Such lands may, under such ~~regulations~~ laws as the legislature shall prescribe, be leased, ~~for periods of not more than ten years, and in the case of an oil, gas, or other hydrocarbon lease or a geothermal resource and associated byproducts lease, for as long thereafter as such product is produced in paying quantities or the lessee in good faith is conducting well drilling or construction operations~~ provided any such lease secures the maximum long-term financial return, and such lands shall not be subject to preemption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

(b) Such lands may be exchanged for other lands, public or private. The values of such lands so exchanged shall be approximately equal or, if they are not approximately equal, they shall be equalized by the payment of money by the appropriate party. If any such lands are exchanged with the United States, such exchange shall be limited to Federal lands within the State that are subject to exchange under the laws governing the administration of such lands. All such exchanges heretofore made with the United States are hereby approved.

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 25, 1998
Adopted by the Senate March 17, 1998

(H.J.M. No. 10)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-fourth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, on January 22, 1998, U.S. Forest Service chief Michael Dombeck proposed a major overhaul of the forest road system, including a proposal to halt all road construction in roadless areas of national forests; and

WHEREAS, forests occupy some 3/4 billion acres, or 1/3 of the land area of the United States and the change would effectively create the largest de facto wilderness bill in history which would close public access to in excess of 47% of the national forest land base outside established wilderness, as well as limit access to wilderness; and

WHEREAS, this proposed policy change will result in an eighteen-month moratorium on road building within roadless areas currently defined as areas over 5,000 acres, roadless areas identified and

inventoried within their forest plans, roadless areas over 1,000 acres that are adjacent to other roadless areas of 5,000 acres or larger which are congressionally designated wilderness or "wild river" corridors, roadless or very low density areas designated for inclusion by regional foresters because of their unique ecological or social values, and decommissioning of "unneeded" existing roads; and

WHEREAS, a moratorium by administrative fiat circumvents the public participation and environmental documentation requirements of the National Environmental Policy Act and the National Forest Management Act, as well as the Congress of the United States; and

WHEREAS, Idaho Code sections 40-107 and 40-204A define "federal lands rights-of-way" within the context of Revised Statute 2477, codified as 43 United States Code 932, and Idaho House Joint Memorial No. 6 of 1993 affirms Idaho's interest in maintaining Revised Statute 2477 authorization and grants, in rights-of-way access to unreserved, or formerly unreserved public lands; and

WHEREAS, as counties are entitled to receive 25% of receipts from national forest lands, the new policy has the potential of eliminating $100 million dollars in desperately needed moneys for local schools; and

WHEREAS, the administration has only evaluated the devastating economic effect on timber harvest and is ignoring the negative impact on mining, grazing, commercial and private recreationists and local economies; and

WHEREAS, unemployment rates could rise up to 33% in 7 western states and in some eastern and southern states; and

WHEREAS, forest roads are an integral part of maintaining forest health, as well as an integral part of a socioeconomic base that would shortchange rural counties of millions in revenue for having federal forests within their boundaries; and

WHEREAS, a road moratorium would preempt all state and local laws and regulations.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Congress of the United States is urged to recognize state and county rights-of-way under Revised Statute 2477 and take appropriate action to invalidate the proposed policy change for forest roadless areas; and

BE IT FURTHER RESOLVED that the Congress of the United States is urged to do all within its statutory authority to deny funding for the implementation of the proposed policy change by administrative fiat.

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 Honorable William Clinton, President of the United States, to the Honorable Dan Glickman, Secretary of Agriculture, to Chief Michael Dombeck, United States Forest Service, to the President of the Senate and the Speaker of the House of Representatives of Congress, the congressional delegation representing the State of Idaho in the Congress of the United States, and to the Honorable Phil Batt, Governor of the State of Idaho.

Adopted by the House February 26, 1998
Adopted by the Senate March 20, 1998

(H.J.M. No. 13)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE UNITED STATES SECRETARY OF TRANSPORTATION, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED AND TO THE CONGRESSIONAL DELEGATION REPRESENTING 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-fourth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, Public Law 102-240, expired on September 30, 1997, and federal surface transportation programs are now being temporarily authorized under the Surface Transportation Extension Act (STEA) of 1997, which expires on May 1, 1998; and

WHEREAS, delay or disruption of federal surface transportation funds to the states and local governments would cause serious transportation and economic problems for the states and their citizens; and

WHEREAS, the United States Congress is currently considering various bills and amendments concerning a multiyear reauthorization of ISTEA; and

WHEREAS, the Legislature of the State of Idaho recognizes the many positive aspects of ISTEA which should be retained in any new federal surface transportation authorization act, including: the need for development of intermodal transportation systems; the development of partnerships between federal, state, local and tribal governments for the delivery of transportation systems and services; and an increased level of responsibility and flexibility given to state, local and tribal governments to address their unique transportation needs and characteristics; and

WHEREAS, ISTEA does need revision in order to eliminate programs that are no longer needed or are unproductive and to remove or revise those provisions which are overly restrictive on the states.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Congress of the United States adopt, in as timely a manner as possible, a multiyear federal surface transportation program reauthorization legislation which:

1. Increases total federal funding for highways to the maximum level sustainable by federal law, including spending authority for funds derived from transfer of 4.3¢ in motor fuel taxes from the General Fund to the Highway Trust Fund;
2. Includes fair and equitable formulas for distribution of federal highway funds, based on the extent and use of the highway system, both rural and urban;
3. Recognizes the national interest in federal lands and the economic impact on states with a large percentage of federal lands;
4. Streamlines and simplifies ISTEA by reducing regulations and

mandates on the states;

5. Provides greater flexibility for state and local highway programs to spend funds in accordance with their unique transportation characteristics and priorities.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to President Bill Clinton, Secretary of Transportation Rodney Slater, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation of the State of Idaho in the Congress of the United States.

Adopted by the House March 3, 1998
Adopted by the Senate March 19, 1998

(H.J.M. No. 14)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-fourth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the United States Department of Agriculture, in concert with the United States Department of the Interior, has been actively involved for the last three and one-half years in the promulgation of a $35-40 million dollar land management project involving virtually all of the Northwestern States, named the Interior Columbia Basin Ecosystem Management Project (ICBEMP); and

WHEREAS, ICBEMP has not been properly authorized by the United States Congress, nor coordinated with the state of Idaho, notwithstanding the inevitable involvement of intermingled state and private lands; and

WHEREAS, representatives of a number of federal wildlife, natural resource and land management agencies have been engaged in the preparation of an ICBEMP Draft Environmental Impact Statement (DEIS) without sufficient regard to or consideration of state concerns and interests; and

WHEREAS, there is no definitive description of an ecosystem or ecosystem management contained in the ICBEMP DEIS as drafted, and associated documents; and

WHEREAS, implementation of ICBEMP will have major impacts on the management of federal lands and therefore major impacts on the counties of this state including a reduction in human economic use of public lands, delays in land use decision-making and new restrictions on both commodity and noncommodity public land outputs, including recreation; and

WHEREAS, the preferred alternative in the DEIS, while supposedly designed to aggressively restore ecosystems and support people, in

reality focuses on ecosystem protection to be achieved by minimizing human impacts to the environment; and

WHEREAS, the DEIS's Desired Range of Future Conditions reflect the personal values of its authors and are not necessarily based on sound scientific information; and

WHEREAS, ecological considerations have been given more weight than providing predictable levels of goods and services from federal lands while procedures and standards for measurement have not been developed for ecosystem health and ecological integrity; and

WHEREAS, the ICBEMP DEIS fails to explicitly identify the economic or social needs of people, cultures, and communities in the Columbia River Basin as they pertain to federal lands and fails to define sustainable and predictable levels of products and services from U.S. Forest Service and Bureau of Land Management lands; and

WHEREAS, the DEIS contains no significant legal justification for shifting to ecosystem based management while at the same time nullifying the many years of cooperative effort contained in existing land management plans.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urgently request the Congress of the United States to take action immediately to terminate the Interior Columbia Basin Ecosystem Management Project with no Record of Decision being approved. We request that all funding enabling further action toward the implementation be terminated and withdrawn from all federal agencies involved. All valid science based information developed by this project should be communicated to BLM district managers and National Forest supervisors for consideration of public input in statutorily scheduled environmental land and resource management plan revisions.

BE IT FURTHER RESOLVED that the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, strongly support natural resource planning and environmental management featuring site-specific management decisions made by local decision-makers, local citizenry and parties directly and personally affected by environmental land and resource management decisions.

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 Secretary of the United States Department of Interior, to the Chief of the Forest Service of the United States Department of Agriculture, to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the state of Idaho in the Congress of the United States.

Adopted by the House March 3, 1998
Adopted by the Senate March 20, 1998

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 122)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ADOPTING CERTAIN RECOMMENDATIONS, AND STATING POLICY TOWARD FUNDING RECOMMENDATIONS REGARDING PAY POLICIES FOR STATE EMPLOYEES.

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

WHEREAS, the Legislature has by law provided that the Governor and Idaho Personnel Commission report to the Legislature their recommendations for proposed pay policies, together with estimated costs thereof; and

WHEREAS, the Legislature has received and reviewed the report of the Governor dated January 14, 1998, and the report of the Idaho Personnel Commission dated September 26, 1997; and

WHEREAS, the Legislature endorses the Compensation Policy adopted by House Concurrent Resolution No. 58 in the 1994 Legislation Session which is restated in part as follows:

1. It is the mission of the Idaho State Government to provide a high level of responsive service in meeting the needs of its citizens. To accomplish this mission, it is the policy of the State of Idaho to provide a total compensation system that attracts, retains and recognizes employees. The foundation of this system is to reward employees for performance in the achievement of service delivery goals and objectives.
2. It is intended that the State of Idaho pay competitive job market average salaries. Employees should expect to reach the market rate within their assigned pay grade based upon acceptable performance.
3. It is the policy of the Legislature that employees be rewarded and advanced in their assigned pay grade based on their performance in the achievement of organizational mission, goals and objectives.

WHEREAS, the Legislature recognizes the need to maintain spending patterns within established guidelines.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that:

1. Recommendations in the report of the Idaho Personnel Commission and not concurred in by the Chief Executive are hereby rejected.
2. Recommendations in the report of the Chief Executive are hereby adopted.

3. The Joint Finance-Appropriations Committee is directed to appropriate an amount not to exceed $21,012,000 from the General Fund to fund these recommendations for state agencies, colleges, and universities.

4. For those agencies funded in total or in part from non-General Fund money, the Joint Finance-Appropriations Committee is directed to appropriate in as nearly as possible the same manner as for General Fund funded agencies.

5. To the extent possible, within agencies' appropriations, directors are expected to provide salary increases consistent with the stated legislative policy above. It is further expected that particular emphasis shall be placed on employees who are below the policy rate within their assigned pay grade and who have performed in an acceptable manner in the same job class for five years or more.

6. The effective date of implementation of these salary adjustments shall be June 14, 1998.

BE IT FURTHER RESOLVED that appropriations measures to fund non-classified employees be prepared in as nearly as possible the same manner as for classified employees.

Adopted by the Senate February 3, 1998
Adopted by the House February 11, 1998

(S.C.R. No. 124)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE THAT THE IDAHO DEPARTMENT OF HEALTH AND WELFARE SHALL CONDUCT CRIMINAL HISTORY CHECKS CONSISTENT WITH EXISTING IDAHO CODE AND PROMULGATED RULES.

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

WHEREAS, the safety, health and well-being of children is of paramount concern to Idahoans; and

WHEREAS, children placed in foster care or for adoption through the Department of Health and Welfare should have caretakers who do not pose a risk of harm to them; and

WHEREAS, the Idaho Department of Health and Welfare has had promulgated rules and has conducted criminal history background checks of all foster and adoptive parents since 1987; and

WHEREAS, these rules have been reviewed and approved by the Legislature and have appropriately identified individuals who present risks based on prior criminal convictions; and

WHEREAS, the Legislature finds the existing rules appropriate and that federal law requirements will not reasonably assure greater safety for children; and

WHEREAS, the Adoptions and Safe Families Act of 1997 gives states the option of changing their criminal history background check procedures to be consistent with those outlined in the Adoption and Safe Families Act or electing, by law, to make the federal requirements

inapplicable to the state.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the State of Idaho is electing to make the federal requirements for criminal history background checks not applicable to the state and to continue conducting criminal history background checks under the existing law and rule, subject to amendment as may be determined appropriate.

Adopted by the Senate February 16, 1998
Adopted by the House March 13, 1998

(S.C.R. No. 126)

A CONCURRENT RESOLUTION
RECOGNIZING ACCOMPLISHMENTS AND NEEDS FOR ADULT LITERACY PROGRAMS AND DECLARING NOVEMBER 1998 TO BE IDAHO LITERACY MONTH WITH THE THEME "LITERACY MAKES A WORLD OF DIFFERENCE."

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

WHEREAS, "literacy in the 90's" means having a broad range of skills that include reading, writing, and speaking in English, math, and critical thinking; and

WHEREAS, for businesses, literacy also includes such workplace basics as using computers, working on teams, and making decisions and a literate workforce is essential to the local, state, and national economy and affects economic competitiveness in a global market; and

WHEREAS, technology is rapidly advancing in our society and increased literacy skills empower individuals to meet the increased demands of daily life accordingly; and

WHEREAS, learning does not end with formal education but continues throughout life as individuals acquire new knowledge and skills; and

WHEREAS, literacy empowers parents in their role as their children's first teacher, preparing their children to be ready to learn upon entering school and helping their children to succeed once in school; and

WHEREAS, English as a second language programs empower non-English speaking adults to be successful in society and at work and to contribute to the success of their children at home through language development and to participate in their children's education; and

WHEREAS, literacy empowers Idaho citizens by enabling them to exercise the rights and responsibilities of citizenship; and

WHEREAS, studies such as the 1992 National Adult Literacy Survey, show twenty percent of Idaho's adult population lack some of the basic literacy skills needed to take full advantage of their lifelong learning opportunities, and approximately 140,000 Idaho adults, according to the 1990 census figures, do not have a high school diploma or a GED; and

WHEREAS, statewide 10,000 to 13,000 adults enroll in adult basic education programs each year; and

WHEREAS, dedicated volunteers provide tutoring to adults through Adult Basic Education programs, a variety of community-based organizations and libraries; and

WHEREAS, the state of Idaho invests in the Adult Basic Education program administered by the State Department of Education and services are delivered through partnerships with four postsecondary technical institutes, two community colleges, the Idaho Migrant Council, correctional facilities, and a variety of institutions, agencies and private industry; and

WHEREAS, support through public/private partnerships is critical in order to provide high quality training, materials and technology to staff and volunteers in Idaho's literacy programs.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that November 1998 be declared "Idaho Literacy Month" for the purpose of focusing public awareness on empowering Idahoans through increased literacy skills with the theme "Literacy Makes a World of Difference."

Adopted by the Senate February 25, 1998
Adopted by the House March 16, 1998

(S.C.R. No. 127)

A CONCURRENT RESOLUTION
RECOGNIZING AND COMMENDING BARBARA MORGAN, MISSION SPECIALIST-EDUCATOR IN THE NASA SPACE PROGRAM.

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

WHEREAS, Barbara Morgan, McCall resident and teacher in the McCall-Donnelly Elementary School, was chosen from among 11,000 teachers to participate in the Teacher in Space program in 1985; and

WHEREAS, Barbara has continued to play a leadership role in space education with her work through NASA's Education Division; and

WHEREAS, NASA has recently announced that Barbara Morgan will become the first mission specialist-educator to travel into space; and

WHEREAS, Barbara will now train as an astronaut and will travel into space as a full-fledged participant in the program; and

WHEREAS, Barbara has said that teaching will always be her first priority in the space program, and her devotion to her own students and to students everywhere is the preeminent value in her approach to space travel; and

WHEREAS, Barbara has likened this experience to turning the pages of a book, with a story unfolding before the young people of America and the world, piquing their interest in space, in exploration in general, and in broaching new frontiers in learning.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we commend her character and qualifications which have led to the selection of Barbara

Morgan as a mission specialist-educator with the NASA space program. She is an example of the dedication to education which is so typical of teachers and which is the special attribute teachers bring into a successful classroom. We know that this experience will be shared with thousands of students, young and old, who still cherish exploration and new ideas. From her view in space, high above the world we inhabit, Barbara will undoubtedly gain new insights to share with us all. We look forward to the day when Barbara Morgan will return to an Idaho classroom and to students whose education will be enriched by her experiences. Students everywhere join the Idaho Legislature in wishing Barbara Godspeed.

Adopted by the Senate February 25, 1998
Adopted by the House March 16, 1998

(S.C.R. No. 129)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND DIRECTING THE COMMITTEE TO STUDY THE STATUS OF EARLY READING EDUCATION IN IDAHO TO CONTINUE THROUGH THE NEXT YEAR AND TO PREPARE LEGISLATION TO IMPLEMENT THE RECOMMENDATIONS OF THE COMMITTEE FOR SUBMISSION TO THE LEGISLATURE.

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

WHEREAS, the First Regular Session of the Fifty-fourth Idaho Legislature, recognizing that the ability to read well is essential to the future success of children, authorized a study of the status of reading in public schools in Idaho and of recommended policies to guarantee that every child can read at grade level by third grade; and

WHEREAS, the State Board of Education and the Department of Education appointed a committee of legislators, business leaders, educators and parent representatives from all regions of the state to conduct the study; and

WHEREAS, the committee determined that Idaho should be the first state to make reading every child's birthright; and

WHEREAS, after thorough research and testing, the committee found that a majority of Idaho's fourth grade school children are not comprehending what they read at a level expected of them, thus creating the need for remedial work in later grades and in the workplace; and

WHEREAS, certain groups of disadvantaged children have significant reading problems which will prevent them from succeeding in school or life and greatly increase the likelihood that they will drop out of school, be unemployed, and be sent to prison; and

WHEREAS, we have the methods and tools to ensure that every child can read.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the legislature

authorizes the reading study committee to prepare the "Every Child's Birthright" Literacy Act for presentation to the 1999 Idaho Legislature. The committee should incorporate the recommendations that the act propose a comprehensive and systematic plan for ensuring that every Idaho child will read at grade level by grade three, a definition and method of measurement of reading at grade level, a process and time line for implementation, and a budget and analysis of the most cost-effective methods for achieving the goals.

BE IT FURTHER RESOLVED that the committee shall hold public hearings on a draft of the act prior to finalizing the proposal to the legislature.

Adopted by the Senate March 2, 1998
Adopted by the House March 20, 1998

(S.C.R. No. 130)

A CONCURRENT RESOLUTION

AUTHORIZING THE LEGISLATIVE COUNCIL TO UNDERTAKE AND COMPLETE A STUDY OF THE ALCOHOLIC BEVERAGE LAWS OF THE STATE OF IDAHO AND AN EVALUATION OF ALCOHOL BEVERAGE LAW THAT CREATES ALCOHOL SPECIAL INTEREST GROUPS.

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

WHEREAS, the statutes, laws and rules governing the sale, distribution and consumption of alcoholic beverages in the state of Idaho have developed through a process of deletions and additions resulting in a confusing and oftentimes contradictory system of statutes, laws and rules; and

WHEREAS, several pieces of legislation are annually considered by the legislature which propose amendments to the alcoholic beverage statutes, and debate of these measures illustrates the complexity of the current legal framework in this area and every year bills pass which further complicate the legal framework of the alcoholic beverage control laws; and

WHEREAS, it is incumbent upon the legislature to make the laws of the state understandable while at the same time accomplishing or attaining appropriate state policy as to the rationale for these laws.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee, not to exceed eight legislators, to perform the following:

1. Undertake and complete a study of the alcoholic beverage statutes and rules and all matters relating thereto with the goals of simplifying the regulatory framework while at the same time keeping in mind the public policy of encouraging temperance and sobriety of the citizens and assisting those individuals for whom the consumption of alcohol provides problems.

2. Evaluate alcohol beverage laws, that authorize or have

resulted in the creation of economic special interest groups and justify the ongoing value of their public purpose and financial benefit to the citizens of Idaho.

The Legislative Council shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the legislature.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-fifth Idaho Legislature.

Adopted by the Senate February 23, 1998
Adopted by the House March 20, 1998

(S.C.R. No. 131)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING IDAHO TO SEND REPRESENTATIVES TO MEETINGS INVOLVING A COMBINED WESTERN PRESIDENTIAL PREFERENCE PRIMARY.

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

WHEREAS, there has been interest in the western states of seeing about the feasibility of holding the Presidential Preference Primary on a date that would give western states maximum exposure; and

WHEREAS, in the past, when Presidential Preference Primaries have been held, the presidential nomination for the respective political parties has largely been decided and the vote generally of little significance; and

WHEREAS, the western states at times feel as though the federal government is uncaring to our concerns; and

WHEREAS, the vehicle of holding a Presidential Preference Primary earlier than Idaho currently holds it, might make presidential candidates be more responsive to western needs; and

WHEREAS, the Western Conference of the Council of State Governments recently passed a resolution at its annual meeting endorsing the concept of further study of a "super" western Presidential Preference Primary; and

WHEREAS, the Governor of the State of Utah has endorsed a concept of having a multi-state Presidential Preference Primary; and

WHEREAS, while we can see benefits to the idea, it may come with some costs to the state as well.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the President Pro Tempore and the Speaker of the House of Representatives are hereby authorized to each appoint a representative to attend meetings regarding a "super" western Presidential Preference Primary and are authorized to expend moneys from the Legislative Account to pay these legislators' travel expenses and per diem. Members appointed by the

President Pro Tempore and the Speaker are hereby directed to report on the meetings they attend and to make recommendations to the respective houses of the legislature.

Adopted by the Senate February 23, 1998
Adopted by the House March 18, 1998

(S.C.R. No. 132)

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 that impose a fee or charge by adoption of a concurrent resolution before the rules become 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-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that all pending administrative rules or portions of pending administrative rules adopted by state agencies pursuant to the Administrative Procedure Act during the prior calendar year, and submitted through the Office of Rules Coordinator to the Legislature for review during the Second Regular Session of the Fifty-fourth Idaho Legislature, which impose a fee or charge, be, and the same are hereby 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 26, 1998
Adopted by the House March 12, 1998

(S.C.R. No. 133)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND APPROVING AND EXTENDING 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-fourth 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 12, 1998, and all temporary rules previously approved and extended by concurrent resolution adopted in a prior regular session of the Idaho Legislature, be, and the same are hereby approved, with the exception of the following enumerated temporary rule sections:

(1) IDAPA 05.01.01.412, rules of the Department of Juvenile Corrections, concerning staffing requirements, adopted as a temporary rule under docket number 05-0101-9701.

(2) IDAPA 05.01.01.455, rules of the Department of Juvenile Corrections, concerning rules and discipline, adopted as a temporary rule under docket number 05-0101-9701.

(3) IDAPA 11.11.01.091, rules of the Department of Law Enforcement, concerning law enforcement code of conduct, adopted as a temporary rule under docket number 11-1101-9702.

(4) IDAPA 25.01.01.002, Subsection 19, rules of the Outfitters and Guides Licensing Board relating to the definition of hazardous excursions, adopted as a temporary rule under Docket number 25-0101-9701.

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-fifth Idaho Legislature unless it is further extended, approved, amended or modified by adoption of a concurrent resolution by both houses of the Legislature. 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 12, 1998, shall expire by operation of statute upon adjournment of the Second Regular Session of the Fifty-fourth Idaho Legislature, unless approved by adoption of a separate concurrent resolution by both houses of the Legislature.

Adopted by the Senate February 27, 1998
Adopted by the House March 12, 1998

(S.C.R. No. 136)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING THE STATUS OF MAPPING PROCEDURES RELATED TO PUBLIC HIGHWAYS, PUBLIC STREETS AND PUBLIC

RIGHTS-OF-WAY AND REQUESTING THE LOCAL HIGHWAY TECHNICAL ASSISTANCE COUNCIL TO REVIEW AND REPORT ON THE PROCEDURES.

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

WHEREAS, there are thousands of miles of public highways, public streets and public rights-of-way in the state of Idaho under the jurisdiction of the U.S. Forest Service, U.S. Bureau of Land Management, Idaho Transportation Department, Idaho Department of Lands, Idaho Department of Fish and Game, Idaho Parks and Recreation Department, counties of Idaho, Idaho highway districts, and cities of Idaho; and

WHEREAS, there are thousands of miles of privately owned and maintained roads in the state; and

WHEREAS, there are statutory requirements for counties and highway districts to prepare a map of their respective jurisdictions; and

WHEREAS, there are statutory requirements for the director of the Idaho Transportation Department to certify the miles of improved roads within each of the county and highway district's highway systems; and

WHEREAS, functional classification of local roads in Idaho is required by the Federal Highway Administrator; and

WHEREAS, inventory of the federal highway system of local roads is required by the Federal Highway Administrator for inclusion in the nationwide system of highway performance; and

WHEREAS, the local land use planning act requires the cities and counties, in coordination with the highway districts to prepare a transportation element of all required comprehensive plans; and

WHEREAS, the Idaho Transportation Department has a program for the inspection and mapping of county and highway district highways; and

WHEREAS, the Idaho Transportation Board has adopted a rule which provides that highways that are gated will not be classified as an "improved road"; and

WHEREAS, a portion of the county and highway district funds for the Highway Distribution Account are determined by the number of miles of improved roads in their respective jurisdictions; and

WHEREAS, there are many miles of improved roads being maintained by counties and highway districts that access or pass through lands under the jurisdiction of federal government agencies and Idaho state departments; and

WHEREAS, there is an apparent need for uniform county, city, and highway district maps detailing all public highways, public streets, public rights-of-way, R.S. 2477 roads and all private roads in each county; and

WHEREAS, there is also a great need for such maps to benefit the emergency service agencies, both life safety and law enforcement, of the state of Idaho; and

WHEREAS, the Idaho Legislature has authorized the formation and funding of the Local Highway Technical Assistance Council consisting of nine members, equally representing counties, cities and highway districts.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Local Highway

Technical Assistance Council is requested to review the overall process for the development, accuracy, completeness, reproduction and distribution of highway maps in coordination with the Idaho Transportation Department, Department of Lands, Department of Fish and Game, and Department of Parks and Recreation.

BE IT FURTHER RESOLVED that the Local Highway Technical Assistance Council is requested to present its findings, with conclusions and recommendations to the Senate and House Transportation Committees at the First Regular Session of the Fifty-fifth Idaho Legislature.

Adopted by the Senate March 11, 1998
Adopted by the House March 19, 1998

(S.C.R. No. 138)

A CONCURRENT RESOLUTION

COMMENDING MUFFY DAVIS FOR HER DETERMINATION AND COMMITMENT AND HER MEDAL WINNING PERFORMANCE AT THE 1998 PARALYMPICS AT NAGANO, JAPAN.

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

WHEREAS, Muffy Davis has lived in Idaho since the age of six and is now a resident of Idaho; and

WHEREAS, Muffy Davis trained and competed on the slopes at Sun Valley and dreamed of competing in the Olympics until a training accident resulted in paralysis; and

WHEREAS, despite her injuries, Muffy Davis was not willing to give up her dream of Olympic competition but redirected her efforts and learned to ski on a monoski adapted for her specific injuries; and

WHEREAS, Muffy Davis pursued her goals skiing in the Paralympics and, along with 1,200 world athletes, competed in Nagano in the 1998 Paralympics; and

WHEREAS, Muffy Davis won a bronze medal in the slalom at Nagano and is now looking forward to further competition again as a member of the U.S. National Disabled team and plans to compete in Salt Lake City in 2002; and

WHEREAS, Muffy Davis is an inspirational example of determination and commitment and demonstrates perseverance which we could all emulate; and

WHEREAS, Muffy Davis has accomplished her goals in many ways, including her graduation from Stanford with a degree with honors in human biology; and

WHEREAS, it is appropriate that the Legislature, speaking on behalf of the people of the state of Idaho, recognize the positive example and role model set by Muffy Davis through her exemplary accomplishments.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the

House of Representatives concurring therein, that we recognize and honor Muffy Davis for her determination and commitment, her medal winning performance at the 1998 Paralympics at Nagano, Japan, and for the pride she brings to Idaho and America.

Adopted by the Senate March 20, 1998
Adopted by the House March 20, 1998

(S.C.R. No. 139)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD RELATING TO RIVER, LAKE AND RESERVOIR POWER AND FLOAT OUTFITTER LIMITS AND SPECIFYING THAT THE CORRESPONDING TEMPORARY RULE RELATING TO RIVER, LAKE AND RESERVOIR POWER AND FLOAT OUTFITTER LIMITS NOT BE EXTENDED BEYOND THE ADJOURNMENT OF THE SECOND REGULAR SESSION OF THE FIFTY-FOURTH IDAHO LEGISLATURE.

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

WHEREAS, the Legislature is vested with authority to reject 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 Outfitters and Guides Licensing Board relating to river, lake and reservoir power and float outfitter limits 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-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 25.01.01.059, rules of the Outfitters and Guides Licensing Board relating to river, lake and reservoir power and float outfitter limits, subsection (BO2) Boise River - Downstream westside of the Garden City municipal limits to the confluence with the Snake River, and subsection (PA2) Payette River - Black Canyon Dam to the confluence with the Snake River, adopted as a pending rule under Docket number 25-0101-9701, be, and the same is hereby rejected and declared null, void and of no force and effect.

BE IT FURTHER RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 25.01.01.059, rules of the Outfitters and Guides Licensing Board relating to river, lake and reservoir power and float outfitter limits, subsection (BO2) Boise River - Downstream westside of the Garden City municipal limits to the confluence with the Snake River, and subsection (PA2) Payette River - Black Canyon Dam to the confluence with the Snake River, adopted as a temporary rule under Docket number 25-0101-9701, and made

effective by the Outfitters and Guides Licensing Board on August 15, 1997, be, and the same is hereby rejected, and notwithstanding any other concurrent resolutions to the contrary, the same is not approved and not extended and pursuant to Section 67-5226, Idaho Code, shall be declared null, void and of no force and effect upon adjournment of the Second Regular Session of the Fifty-fourth Idaho Legislature.

Adopted by the Senate March 20, 1998
Adopted by the House March 20, 1998

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 29)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND REGULAR SESSION OF THE FIFTY-FOURTH 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-fourth Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 12, 1998.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth 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 12, 1998, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 12, 1998
Adopted by the Senate January 12, 1998

(H.C.R. No. 30)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND REGULAR SESSION OF THE FIFTY-FOURTH 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-fourth Idaho Legislature in the Chamber of the House of Representatives at 11 a.m. on Wednesday, January 14, 1998.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regu-

lar Session of the Fifty-fourth 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 14, 1998, at 11 a.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 14, 1998
Adopted by the Senate January 14, 1998

(H.C.R. No. 33)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF REVENUE SHARING, LOANS AND GRANTS PROGRAMS AND SHARED REVENUE SOURCES.

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

WHEREAS, it is in the interests of all citizens of Idaho that the tax system should be fair and equitable; and

WHEREAS, a significant amount of money is received through taxation into the state treasury and returned to cities, counties and other special districts through various revenue-sharing formulas; and

WHEREAS, the distribution method provided in Section 63-3638(e), Idaho Code, is based on economic conditions in 1965, 1966 and 1967, which conditions have changed substantially; and

WHEREAS, the formula for distribution of sales tax revenue was originally intended as a short-term alternative to the business inventory tax, and was not designed to endure as a permanent addition to the tax structure; and

WHEREAS, other formulas also distribute funds to the highway system from state revenue and provide significant support to the cities, counties, public schools, community colleges, highway districts and other special districts; and

WHEREAS, additional grant and loan programs, revenue sharing, and shared revenue sources are involved in water treatment programs, water and sewer systems, law enforcement, health and welfare programs, and many others; and

WHEREAS, there is little evidence that the formulas provide the necessary degree of consistency and responsiveness to the actual needs which exist in the local governmental units, and provide a fair and equitable program of revenue sharing; and

WHEREAS, changes to established distribution formulas should be done in a deliberate and cautious manner, with ample time for all interested parties to present input and concerns, and with time to assemble and analyze all necessary data.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete

a study of the revenue sharing, grant and loan programs and shared revenue sources which affect the cities, counties and other special districts which deliver services to Idaho citizens. The Legislative Council shall determine the number of legislators and membership from each house appointed to the Committee and shall authorize the Committee to receive input, advice and assistance from interested and affected parties who are not members of the legislature.

BE IT FURTHER RESOLVED that nonlegislative members of the Committee may be appointed by the Cochairs of the Committee who are appointed by the Legislative Council. Nonlegislative members of the advisory committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the Committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the Committee shall report its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-fifth Idaho Legislature.

Adopted by the House March 6, 1998
Adopted by the Senate March 20, 1998

(H.C.R. No. 35)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE BOARD OF PHARMACY RELATING TO ELECTRONIC TRANSMISSION OF PRESCRIPTIONS, PHARMACOTHERAPY AND PHARMACY TECHNICIANS.

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

WHEREAS, the Legislature is vested with authority to reject 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 Board of Pharmacy relating to electronic transmission of prescriptions, pharmacotherapy, and pharmacy technicians 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-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 27.01.01.162, rule of the Board of Pharmacy relating to electronic transmission of prescriptions, adopted as a pending rule under Docket number 27-0101-9701, IDAPA 27.01.01.165, rule of the Board of Pharmacy relating to pharmacotherapy, adopted as a pending rule under Docket number 27-0101-9701, and IDAPA 27.01.01.251, rule of the Board of Pharmacy relating to pharmacy technicians, adopted as a pending rule under Docket number 27-0101-9701, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 17, 1998
Adopted by the Senate February 25, 1998

(H.C.R. No. 37)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF LANDS RELATING TO NAVIGABLE LAKES AND THE DEFINITIONS OF ENCROACHMENTS IN AID OF NAVIGATION, ENCROACHMENTS NOT IN AID OF NAVIGATION, NATURAL OR ORDINARY HIGH WATER MARKS, AND THE PUBLIC TRUST DOCTRINE.

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

WHEREAS, the Legislature is vested with authority to reject 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 Lands relating to navigable lakes and the definitions of encroachments in aid of navigation, encroachments not in aid of navigation, natural or ordinary high water marks, and the public trust doctrine 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-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that within IDAPA 20.03.04.010, rules of the Department of Lands relating to navigable lakes, Subsection 10, concerning the definition of "encroachments in aid of navigation"; Subsection 11, concerning the definition of "encroachments not in aid of navigation"; Subsection 14, concerning the definition of "natural or ordinary high water marks"; and Subsection 20, concerning the definition of the "public trust doctrine" all adopted as pending rules under Docket number 20-0304-9701, such subsections be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 26, 1998
Adopted by the Senate March 20, 1998

(H.C.R. No. 38)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE OUTFITTERS AND GUIDES LICENSING BOARD RELATING TO THE DEFINITION OF HAZARDOUS EXCURSIONS.

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

WHEREAS, the Legislature is vested with authority to reject 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 Outfitters and Guides Licensing Board relating to the definition of hazardous excursions 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-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 25.01.01.002, Subsection 19, rules of the Outfitters and Guides Licensing Board relating to the definition of hazardous excursions, adopted as a pending rule under Docket number 25-0101-9701, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 26, 1998
Adopted by the Senate March 17, 1998

(H.C.R. No. 41)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING THE IMPORTANCE OF A THOROUGH KNOWLEDGE OF THE PRINCIPLES OF AMERICANISM INCORPORATED IN THE DECLARATION OF INDEPENDENCE, THE CONSTITUTION OF THE UNITED STATES AND THE BILL OF RIGHTS, AND URGING AUTHORITIES TO DEVELOP APPROPRIATE PROGRAMS, MATERIALS AND INFORMATION.

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

WHEREAS, citizens of the state of Idaho have demonstrated through the years that they cherish their rights and respect their obligations as citizens of the United States; and

WHEREAS, the unique written documents of America, the Declaration of Independence, the Constitution of the United States, and the Bill of Rights, state the fundamental principles of our heritage; and

WHEREAS, Idaho has adopted statutes directing that instruction in the content of the Constitution and the appropriate display of the American flag shall be given in all elementary and secondary schools; and

WHEREAS, September 17, the anniversary of the signing of the Constitution, has been designated as Constitutional Commemorative Day and the day is to include suitable recognition and study of the Constitution; and

WHEREAS, the Superintendent of Public Instruction, the State Board of Education and the Boards of Education of the School Districts of Idaho are directed by law to develop materials and programs to provide appropriate instruction in the rights, duties and responsibilities of an American citizen.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we reassert the importance of thorough study and understanding of the documents which embody the essentials of Americanism. We commend to the appropriate authorities their duties to develop the programs, materials and infor-

mation which will lead the students of the state of Idaho to a fuller understanding of their American heritage. We know that if students fully appreciate the Declaration of Independence, the Constitution of the United States and the Bill of Rights, the future of America and the state of Idaho will be assured.

Adopted by the House March 5, 1998
Adopted by the Senate March 17, 1998

(H.C.R. No. 42)

A CONCURRENT RESOLUTION
COMMENDING PICABO STREET FOR HER SUPERIOR CONDUCT AND FOR HER ACCOMPLISHMENTS AT THE 1998 WINTER OLYMPICS AT NAGANO, JAPAN.

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

WHEREAS, Picabo Street was born and raised in the heart of Idaho; and

WHEREAS, Picabo Street learned to ski on the slopes of Mt. Baldy in Ketchum and still lives in the Wood River Valley; and

WHEREAS, Picabo Street has devoted her life to being a world-class skier; and

WHEREAS, Picabo Street has achieved her goals with inspiring success; and

WHEREAS, Picabo Street won a silver medal in the 1994 Winter Olympics, many World Cup downhill ski races, a Crystal Globe award symbolic of World Cup skiing supremacy, and most recently a gold medal in the 1998 Winter Olympics; and

WHEREAS, Picabo Street has reached the peak of her skills; and

WHEREAS, Picabo Street has climbed to the top of her profession in the face of great adversity, including a debilitating knee injury in December 1996, that threatened to end her career and a concussion in January 1998, that threatened her performance at the 1998 Winter Olympics; and

WHEREAS, Picabo Street fought back with exemplary strength, focus and determination and recovered completely from both injuries; and

WHEREAS, Picabo Street is respected throughout the world as a fierce competitor on the slopes but as a friendly compatriot when the race is over; and

WHEREAS, Picabo Street is a positive role model for us all; and

WHEREAS, Picabo Street's performance in the 1998 Winter Olympics makes Americans look eagerly to the Winter Olympics to be held in Salt Lake City, Utah, in the year 2002, an event that should have many positive effects in the state of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize and

honor Picabo Street for her superior attitude and conduct, her medal winning performance at the 1998 Winter Olympics at Nagano, Japan, and for the pride she brings to Idaho and America.

Adopted by the House February 24, 1998
Adopted by the Senate March 5, 1998

(H.C.R. No. 43)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO STUDY PRIVATE PROPERTY REGULATORY ACTIONS WHICH IMPOSE FINANCIAL BURDENS LESS THAN A CONSTITUTIONAL TAKING AND TO MAKE RECOMMENDATIONS.

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

WHEREAS, contrary to originating intent, some laws, rules and ordinances of the state and political subdivisions of the state, as applied in practice, may inordinately or unfairly burden, restrict or limit private property rights without necessarily amounting to a constitutional "taking"; and

WHEREAS, in enacting or promulgating such laws, rules and ordinances, the state and political subdivisions of the state have no legislative guidelines for defining essential nexus connecting the public purpose sought and the degree to which owners of private property are forced to bear permanent or temporary financial loss for the benefit of the public; and

WHEREAS, the regulatory "takings" review provision of Chapter 80, Title 67, Idaho Code, is protected by lawyer-client privilege with no separate requirement for government to report the basis of final decisions to the public; and

WHEREAS, some states have passed "less than takings" legislation to protect property owners; and

WHEREAS, concerns have been expressed over time and costs associated with "exhaustion of administrative remedies" and options of the court in the succeeding judicial review process; and

WHEREAS, the technical aspects of both House Bill 538 and House Bill 606 from the 1998 Idaho Legislature were found to be sufficiently complicated to require additional study.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a committee to undertake a review of House Bill 538 and House Bill 606 from the 1998 Idaho Legislature and the "takings" and "less than takings" legislative policy implications contained therein.

BE IT FURTHER RESOLVED that the committee shall take public testimony in at least four segments of the state as well as in Boise and that the committee shall report findings back to the First Regular Session of the Fifty-fifth Idaho Legislature with recommendations and

legislation appropriate to committee findings.

BE IT FURTHER RESOLVED that the committee shall be composed of members of the House of Representatives and the Senate and one ex officio representative from each of the Idaho Association of Counties, the Association of Idaho Cities, the Idaho Association of Realtors and the Farm Bureau Federation. Ex officio membership shall also include three open positions to be filled by a public attorney (counties/cities), a private attorney (Realtors/Farm Bureau) and an attorney from the Office of the Attorney General. Nonlegislative persons shall not have their expenses paid from the Legislative Account.

Adopted by the House February 26, 1998
Adopted by the Senate March 20, 1998

(H.C.R. No. 44)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING INVESTMENT OF STATE MONEYS BY THE STATE TREASURER IN THE UNITED STATES SMALL BUSINESS ADMINISTRATION GUARANTEED PORTION OF LOANS FOR PURPOSES OF FINANCING ADDITIONS TO OR RETROFITS OF UNDERGROUND STORAGE TANKS OR TANK SYSTEMS.

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

WHEREAS, the Legislature has recognized the importance to the citizens of the state of Idaho that the state's citizens have ready access to petroleum products stored and delivered in a safe, secure manner; and

WHEREAS, following the enactment of underground storage tank upgrade regulations promulgated by the United States Environmental Protection Agency pursuant to subtitle I of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Legislature enacted programs intended to assist tank operators to meet these requirements and maintain supply; and

WHEREAS, in 1993, the First Regular Session of the Forty-second Idaho Legislature charged the State Treasurer with the purchase of the government guaranteed portion of the Small Business Administration loans specifically for the purpose of financing the addition to or retrofit of an underground storage tank or underground storage tank system to bring the tank or tank system into compliance; and

WHEREAS, at the time of this charge to the State Treasurer, it was anticipated that the program would have limited fiscal impact and be limited in size, but since that time, the State Treasurer has been called upon to expand the program well beyond the original estimated scope; and

WHEREAS, as a result of the loan guarantees, the State Treasurer is investing state funds at a flat interest rate between 3% and 4% which is below the amount which could be realized on other investments, and represents an indirect expenditure of state resources; and

WHEREAS, it is appropriate that the Legislature recognize the cur-

rent impact of the program authorized in 1993, and adopt a statement of Legislative intent that the State Treasurer continue the program at the level necessary to meet the demand.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature recognizes the fiscal impact of the provisions of Section 67-1210, Idaho Code, which authorizes the State Treasurer to invest in the Small Business Administration guaranteed portion of any loan to finance the addition to or retrofit of an underground storage tank or underground storage tank system, and adopts this statement of legislative intent that the State Treasurer continue these investments at the level necessary to meet the demand.

Adopted by the House March 6, 1998
Adopted by the Senate March 19, 1998

(H.C.R. No. 46)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ENDORSING A DEMONSTRATION PROJECT TO ASSESS METHODS FOR DELIVERY OF PUBLIC MENTAL HEALTH SERVICES.

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

WHEREAS, an interim committee of the legislature undertook a study of the delivery of mental health services in the public health system; and

WHEREAS, a recurrent issue which was expressed to the committee over the course of public hearings was the need to enhance the delivery system through greater integration of services along a continuum; and

WHEREAS, a specific issue the committee sought to address was the development of a single entry point into the delivery system to ensure maximum control of costs while also maintaining quality of service; and

WHEREAS, reorganization of the current system was discussed extensively with consideration of delivery systems in similarly situated sister states, the best aspects of the current delivery systems, and the desired goals of any reorganization; and

WHEREAS, the interim committee reviewed and was supportive of further exploration of the concepts of single-stream funding, local mental health authorities, public/private partnerships, increased responsiveness to the needs of consumers and their families, and greater system accountability; and

WHEREAS, the Region IV Community Mental Health Center has been exploring many of these innovative concepts as described above; and

WHEREAS, the legislature would like to take this opportunity to endorse a demonstration project to be developed within Region IV Community Mental Health Center.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we endorse the demonstration project of the Region IV Community Mental Health Center with the goal that it will aid in assessment of viability of single-stream funding, local mental health authorities, public/private partnerships, increased responsiveness to consumers and their families and greater accountability. We urge that the project be developed with a particular focus on data collection, performance indicators, and outcomes which will give legislators information to apply statewide. The members of the legislature maintain a continued interest and concern that the needs and preferences of the consumers themselves must be given high priority in the development of a public mental health system.

Adopted by the House March 9, 1998
Adopted by the Senate March 18, 1998

(H.C.R. No. 49)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE THAT THE STATE OF IDAHO IS COMMITTED TO PRINCIPLES OF HUMAN RIGHTS AND RECOGNIZES THE UNIQUE VALUE OF THE HUMAN CHARACTER IN ITS GREAT DIVERSITY AND WEALTH OF VARIETY.

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

WHEREAS, the Governor of the State of Idaho, the Honorable Philip E. Batt, addressed the Legislature in the State of the State Address on January 12, 1998, and in his address restated the commitment of the people of the state to principles of human rights; and

WHEREAS, it is appropriate that the Legislature recognize this commitment, and in addition that we add the observations of the membership of the Legislature on behalf of the people of Idaho; and

WHEREAS, Idaho is a state where the industry and courage of every citizen is valued and the contributions of individuality and good character are recognized; and

WHEREAS, on behalf of the citizens, the Idaho Legislature made a comprehensive commitment to human rights within the enactment of the Commission on Human Rights which states in part, that the commission is established to "...secure for all individuals within the state freedom from discrimination because of race, color, religion, sex or national origin in connection with employment, public accommodations, education and real property transaction, discrimination because of age or disability in connection with employment, and discrimination because of disability in real property transactions, and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities..."; and

WHEREAS, the Legislature continues to further the commitment to human rights and to act upon this commitment in legislation which sup-

ports programs to further the opportunities of all Idaho citizens; and

WHEREAS, citizens of Idaho have endured an unwarranted unfavorable barrage of publicity related to certain opinions held by a small minority of persons who claim Idaho as their home, but whose opinions we strongly denounce and state without reservation that they are not representative of the opinion of the true citizenry of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that on behalf of the citizens of Idaho, the Legislature joins with the Honorable Governor of the State of Idaho, proclaiming our commitment to the principles of human rights. We acknowledge the unique value of the human character in its great diversity and wealth of variety.

Adopted by the House March 11, 1998
Adopted by the Senate March 18, 1998

(H.C.R. No. 50)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF ISSUES SURROUNDING THE SEPARATION OF ENVIRONMENTAL MATTERS INTO A DEPARTMENT OF ENVIRONMENTAL QUALITY.

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

WHEREAS, during this session, and several other recent sessions of the legislature, there has been consideration and debate of issues surrounding legislation to establish a separate Department of Environmental Quality; and

WHEREAS, proponents, including the Governor of Idaho in his State of the State Address, have maintained that the goals of protecting human health and the environment can best be achieved by vesting this responsibility in a single state department with the sole mission of meeting these goals; and

WHEREAS, complex issues of the rights, powers, duties, budgets, funds, contracts, rulemaking proceedings, administrative proceedings, contested cases, civil action and other matters relating to environmental protection are now entwined within the Department of Health and Welfare; and

WHEREAS, careful study of the interests of this state and her citizens in protecting environmental values including, but not limited to, clean air, water and soil, reducing or eliminating environmental pollution arising from human activities, ensuring the proper treatment, storage and disposal of hazardous wastes and ensuring the proper cleanup and restoration of existing natural resources is vital; and

WHEREAS, it is advisable to establish an interim committee to study these issues and prepare legislation if it is found to be the best approach.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regu-

lar Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of issues surrounding the separation of environmental matters into a Department of Environmental Quality. The Legislative Council shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the legislature.

BE IT FURTHER RESOLVED that nonlegislative advisors of the committee may be appointed by the cochairs of the committee who are appointed by the Legislative Council. Nonlegislative advisors shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-fifth Idaho Legislature.

Adopted by the House March 18, 1998
Adopted by the Senate March 20, 1998

(H.C.R. No. 53)

A CONCURRENT RESOLUTION

RECOGNIZING, HONORING AND COMMENDING QUANE KENYON FOR HIS YEARS OF SERVICE TO THE PROFESSION OF JOURNALISM AND FOR HIS CONTRIBUTIONS TO PUBLIC KNOWLEDGE OF GOVERNMENT AND THE LEGISLATIVE PROCESS.

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

WHEREAS, after graduating with a degree in government from Idaho State University, Quane Kenyon began his career in journalism as a copy boy in the Salt Lake City Bureau of the Associated Press, and then worked for the Idaho State Journal in Pocatello, Idaho for six years, followed by five years with the Salt Lake Tribune, before joining the Associated Press over thirty years ago; and

WHEREAS, Quane Kenyon has covered the action of the Idaho Legislature for the past twenty-five years, has during this time recounted the conduct and results of election campaigns and governmental actions, and has reported on all of the regular, organizational and special sessions, specializing in coverage of the House of Representatives for the past fifteen years; and

WHEREAS, his weekly column, "Inside the Capitol," has been published for over a decade by newspapers in Idaho, providing important information to the public about government and politics; and

WHEREAS, Quane Kenyon has exemplified excellence in journalism and the highest reporting standards throughout his years of professional reporting; and

WHEREAS, a free press exercised with unbiased reporting of governmental activities is an essential element in the success and survival

of democracy and representative government.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize, honor and commend Quane Kenyon for his years of service and for contributing to the awareness of the people of the state of Idaho about the activities of the Idaho Legislature and other governmental institutions, and for establishing throughout his career and by his example, the highest standards of excellence in professional journalism.

Adopted by the House March 19, 1998
Adopted by the Senate March 20, 1998

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-fifth Legislature of the State of Idaho, Second Regular Session thereof, which convened January 12, 1998, and which adjourned on March 23, 1998, 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 thirtieth day of April, 1998.

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. 97-05

CONTINUATION OF THE IDAHO LEWIS AND CLARK TRAIL COMMITTEE REPEALING AND REPLACING EXECUTIVE ORDER NO. 95-16

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 organization to coordinate activities relating to the Lewis and Clark Trail with entities and individuals in Idaho and with other Lewis and Clark Trail states and organizations;

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 development and management of the Lewis and Clark Trail and commemoration activities relating to the Lewis and Clark Expedition..

The Committee shall:

1. Act as the coordinating organization in planning activities to foster state recognition of the historic significance of the Lewis and Clark Expedition;
2. Promote public awareness of the historic significance of the Lewis and Clark Expedition and encourage the development and protection of historical sites and outdoor recreation resources along the Lewis and Clark Trail;
3. 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
4. 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, 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 15 persons who are appointed by the Governor and serve at his pleasure. The membership of the Committee shall include the President of the Idaho chapter of the Lewis and Clark Trail Heritage Foundation, Inc., 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. 95-16.

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 twenty-eighth day

of April, in the year of our Lord nineteen hundred ninety-seven, and of the Independence of the United States of America the two hundred twenty-first, and of the Statehood of Idaho the one hundred seventh.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 97-06

AUTHORIZING THE ESTABLISHMENT OF A GAMING STUDY COMMITTEE

WHEREAS, in 1992 at an Extraordinary Legislative Session the legislature of the State of Idaho adopted and the voters approved H.J.R. No. 4 at the general election that year; and

WHEREAS, H.J.R. No. 4 amended Section 20, Article III, of the Constitution of the State of Idaho and clarified that gambling is contrary to public policy in Idaho and is prohibited except for a state lottery, pari-mutuel betting, and bingo and raffle games operated by qualified charitable organizations; and

WHEREAS, H.J.R. No. 4 also prohibited any form of casino gambling including, but not limited to, blackjack, craps, roulette, poker, baccarat, keno and slot machines and prohibited the employment of any electronic or electromechanical imitation or simulation of any form of casino gambling; and

WHEREAS, certain games of chance are being operated on Idaho Indian reservations that are the subject of dispute as to whether they are authorized pursuant to the Indian Gaming Regulatory Act; and

WHEREAS, it is important for the state to promote economic development upon Indian reservations in a manner that is consistent with the public policy of Idaho; and

WHEREAS, there has been a trend in recent years toward increased gaming on and off reservations in Idaho which raises extremely important public policy concerns; and

WHEREAS, both the Executive Branch and Legislative Branch of Idaho government have recognized the need to study gaming in Idaho;

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 Gaming Study Committee is hereby established and shall consist of the following representatives to be appointed by the Governor:
   a. The Lieutenant Governor of the State of Idaho shall be the chairman of the committee.
   b. The Coeur d'Alene, Kootenai, Nez Perce, and Shoshone-Bannock Tribes shall each be requested to designate one representative on the committee recognizing that each of

these tribes is engaged in significant gaming activities.

c. Two representatives shall be appointed from the Idaho Senate and two representatives shall be appointed from the Idaho House of Representatives.

d. Four Idaho citizens who are knowledgeable and/or concerned about the social and cultural side effects of gaming activities, including one citizen associated with law enforcement, shall be appointed.

e. The offices of the Idaho Governor and Attorney General shall be requested to provide assistance to the committee.

f. Each member of the committee shall have one vote, except that the chairman shall not be entitled to vote.

2. The committee is established to accomplish the following:

a. The committee is directed to collect information and gain expertise as to the social and economic costs and benefits of gaming activities.

b. The committee is directed to develop informed and thoughtful recommendations with respect to gaming in the State of Idaho and the committee shall proceed in such a manner that this will be the result.

c. Without intending to limit the scope of the committee's recommendations, the committee is urged to offer recommendations regarding the desirable scope of state lottery games and specifically whether the state lottery should be allowed to engage in video gaming activities. The committee is urged to make recommendations regarding the desirable extent of simulcast betting. The committee is also urged to make recommendations regarding state policy toward tribal gaming. It is understood that while the committee does not make legal decisions, the committee may need to be briefed regarding legal issues in order to make informed recommendations.

d. Timely recommendations are extremely important to the state's policy-makers. Therefore, the committee is requested to work as intensively as possible and to report its recommendations to the Governor by November 1, 1997. This will allow for serious review of the recommendations prior to the 1998 Legislative session and will allow review of the recommendations by the 1998 Legislature.

e. The committee shall serve without compensation, but shall be reimbursed for actual travel expenses not to exceed state guidelines.

f. Committee travel and staffing expenses shall be paid by the Idaho Lottery.

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 Capitol, the twelfth day of May, in the year of our Lord nineteen

hundred ninety-seven, and of the Independence of the United States of America the two hundred twenty-first and of the Statehood of Idaho the one hundred seventh.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 97-07

AUTHORIZING THE ESTABLISHMENT OF A GOVERNOR'S COUNCIL ON HYDROELECTRIC AND RIVER RESOURCES

WHEREAS, Idaho's river system has, since statehood, been a vital factor in the lives of the people of the state and in the economy; and

WHEREAS, Idaho consumers enjoy rates for electrical energy that are among the lowest in the nation; and

WHEREAS, the restructuring of the electric utility industry and the relicensing of hydroelectric facilities will have important impacts on Idaho ratepayers and citizens; and

WHEREAS, it is in the state's best interests to explore the possibilities for preserving the benefits of Idaho's river system and low cost hydroelectricity for the ratepayers and citizens of Idaho; and

WHEREAS, it is in the state's best interests to continue efforts such as low-income energy assistance, universal service, conservation programs, and the research and development of alternative energy sources, which have traditionally been funded by the electrical industry.

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 establish the Governor's Council on Hydroelectric and River Resources as follows: I. The purpose of the Council shall be:

A. To establish guidelines and goals for the successful deregulation of the electrical industry, taking into consideration the social and/or fiscal impacts deregulation will have on Idaho's ratepayers and citizens, with the intent to protect and enhance access to low-cost, stable energy sources.

B. To recommend principles to govern power deregulation, river operations, and hydroelectric facility relicensing on behalf of Idaho's ratepayers and citizens, with the intent to protect and preserve water rights, fish and wildlife habitat, and recreational uses of Idaho's natural resources.

C. To solicit ideas and suggestions from a variety of sources, including but not limited to Idaho's Delegation in the United States Congress, the Governors of the other states of the Pacific Northwest, the Northwest Power Planning Council, the Legislature, all relevant state agencies, electrical and natural gas utilities, consumers of electrical energy, organiza-

tions representing Idaho's water users, environmental and other public interest organizations, and the public. The Council shall provide to the Governor a written report of its advice and recommendations. II. Composition

A. The Governor's Council shall consist of:
   1) A Chairman, appointed by the Governor
   2) The Attorney General or his designee
   3) A member of the Idaho Public Utilities Commission or his/her designee
   4) The Director of the Idaho Department of Fish and Game
   5) The Director of the Idaho Department of Water Resources
   6) The Chairpersons of the four citizen committees

B. The Governor's Council shall consult with, receive and consider recommendations from four separate citizen committees created and whose members shall be appointed by the Governor pursuant to this Executive Order. The Governor shall also appoint a chairman for each Committee.
   1) A Hydropower Relicensing Committee (FERC Relicensing) which will analyze issues and make recommendations concerning the mitigation of impacts to fish, wildlife, and recreation associated with the relicensing of hydroelectric facilities in Idaho.
   2) An Electric Restructuring Committee which will analyze issues and make recommendations concerning the potential restructuring of the electric energy industry.
   3) A River Governance Committee which will analyze issues and make recommendations concerning the coordinated operations of the Columbia and Snake River system.
   4) A Consumer and Public Purposes Committee which will analyze issues and make recommendations concerning the safety, reliability, and cost of energy, and to address the social and economic needs as they relate to low-income energy assistance, conservation programs, and alternative energy sources.

C. The Office of the Governor and the Northwest Power Planning Council will provide staff and administrative support to the Council. Duties of the staff will include:
   1) Provide information and data to the Council and Committees.
   2) Providing logistical coordination, record-keeping, and other project-related functions; and
   3) Preparing any legislative proposals, budget submissions or other written materials as may be required by the Council.

D. The Council will invite and encourage representation from the Legislative Interim Committee on Electric Utility Restructuring.

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 twenty-ninth day of May in the year of our Lord nineteen

hundred ninety-seven and of the Independence of the United States of America the two hundred twenty-first and of the Statehood of Idaho the one hundred seventh.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 97-08

ESTABLISHMENT OF THE STATEWIDE REHABILITATION ADVISORY COUNCIL

WHEREAS, management of vocational rehabilitation services by Idaho State agencies could benefit from review by and the advice of a council of citizens with personal knowledge of the needs of persons with disabilities and interest in the manner in which those needs are addressed; and

WHEREAS, the 1992 amendments to the Rehabilitation Act of 1973 (Title I, Section 105, of PL 102-569) mandate review of the "state plan" and "strategic plan" drafted by the designated state unit (the Division of Vocational Rehabilitation) by a Statewide Rehabilitation Advisory Council; and

WHEREAS, it is in the best interest of the State of Idaho to establish the Rehabilitation Advisory Council to advise the Division of Vocational Rehabilitation on the state plan, the strategic plan, and other Division activities undertaken to benefit the citizens of Idaho;

NOW, THEREFORE, I, 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 order the establishment of the State Rehabilitation Advisory Council.

The Council shall review the activities of the Division of Vocational Rehabilitation and advise on the preparation of applications, the state plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by Title I of the 1992 amendments of The Rehabilitation Act of 1973.

Members of the Council shall be appointed by the Governor and shall be selected after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. The members shall include:

1. at least one representative of the Statewide Independent Living Council;
2. at least one representative of a parent training and information center established pursuant to section 631(c)(9) of the Individuals with Disabilities Act (20 U.S.C. 1431(c)(9));
3. at least one representative of the client assistance program established under section 112 of the 1992 Amendments to the

Rehabilitation Act of 1973;

4. at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs (who, if an employee of the Division of Vocational Rehabilitation, shall serve as a non-voting member of the Council);
5. at least one representative of community rehabilitation program service providers;
6. four representatives of business, industry, and labor;
7. representatives of disability advocacy groups representing a cross section of:
   (a) individuals with physical, cognitive, sensory, and mental disabilities; and
   (b) parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable, due to their disabilities, to represent themselves; and
8. current or former applicants for, or recipients of, vocational rehabilitation services; and
9. the Director of the Division of Vocational Rehabilitation, who shall serve as an ex-officio member of the Council.

A majority of the Council shall be comprised of persons who are individuals with disabilities and not employed by the Division of Vocational Rehabilitation. Members of the Council shall select a chair from among their number.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this tenth day of June in the year of our Lord nineteen hundred ninety-seven and of the Independence of the United States of America the two hundred twenty-first and of the Statehood of Idaho the one hundred seventh.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 97-09

LABOR MARKET INFORMATION PROGRAMS, DEPARTMENT OF LABOR
REPEALING AND REPLACING EXECUTIVE ORDER 93-03

WHEREAS, the "Job Training Partnership Act" as amended by the "Job Training Reform Amendments Act of 1992" mandates designation of a state organizational unit to be responsible for oversight and management of a statewide comprehensive labor market and occupational supply and demand information system as a condition for receipt of federal funds for this sort of activity; and

WHEREAS, participating states are to design comprehensive cost-efficient labor market and occupational supply and demand information systems that:

1. are responsive to the economic demand and education and training supply support needs of the state and areas within the state; and
2. meet the federal standards under Chapter 35 of Title 44, United States Code and other appropriate federal standards established by the Bureau of Labor Statistics; and

WHEREAS, the state's system must standardize available federal and state multi-agency administrative records and direct survey data sources to produce an employment and economic analysis with the published set of projections for the state and designated areas within the state, which shall be used to contribute in carrying out the provisions of the "Job Training Partnership Act as Amended," the "Carl D. Perkins Vocational and Applied Technology Education Act of 1990," and the "Act of June 6, 1993," known as the "Wagner-Peyser Act"; and

WHEREAS, the Governor must assure to the extent feasible that:

1. automated technology will be used by the state,
2. administrative records have been designed to reduce paperwork, and
3. multiple survey burdens on the employers of the state have been reduced; and

WHEREAS, the Idaho Department of Labor operates a highly automated labor market information system supported by six area labor market analysts located in each of the largest cities in Idaho; and

WHEREAS, the Idaho State Occupational Information Coordinating Committee operates a statewide computerized information system, which provides career information to state agencies, area public agencies, libraries, private not-for-profit users, and individuals who are in the process of making career decision choices;

NOW, THEREFORE, I, 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 Labor as the organizational unit responsible for oversight and management of Idaho's statewide comprehensive labor market and occupational supply and demand information system; and

I FURTHER DIRECT that the Idaho Department of Labor 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 pro-

grams.

This Executive Order repeals and replaces Executive Order No. 93-03. 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 sixteenth day of June in the year of our Lord nineteen hundred ninety-seven and of the Independence of the United States of America the two hundred twenty-first and of the Statehood of Idaho the one hundred seventh.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 97-10

ESTABLISHMENT OF THE STATEWIDE INDEPENDENT LIVING COUNCIL REPEALING AND REPLACING EXECUTIVE ORDER 93-01

WHEREAS, the 1992 Amendments to the Rehabilitation Act of 1973 mandate the creation of a statewide Independent Living Council; and

WHEREAS, it is in the best interest of the citizens of the state of Idaho to engage in activities that will enhance the opportunities of people with disabilities to become independent, participating; and supporting members of society; and

WHEREAS, in order to assist citizens with disabilities to have a greater voice in obtaining services that are cost-effective, consumer-responsive, and community-based;

NOW, THEREFORE, I, 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 establish the Statewide Independent Living Council for the State of Idaho.

I. The Council shall:

1. develop and submit, in conjunction with the State Board of Education's Division of Vocational Rehabilitation and the Idaho Commission for the Blind and Visually Impaired, the statewide independent living plan mandated by section 704 of the 1992 Amendments to the Rehabilitation Act of 1973;

2. monitor, review, and evaluate the implementation of the State plan;
3. coordinate its activities with the State Rehabilitation Advisory Council and other councils that address the needs of specific disability populations and issues addressed pursuant to other Federal laws;
4. ensure that all regularly scheduled meetings of the Council are accessible and open to the public and that sufficient advance notice of said meetings is provided;
5. submit periodic reports as required by law, keep such records, and afford access to such records as may be necessary to verify such reports; and
6. shall follow the guidelines contained in the 1992 Amendments to the Rehabilitation Act of 1973, Section 705.

II. The council shall be composed of members who provide statewide representation; who represent a broad range of individuals with disabilities; who are knowledgeable about centers for independent living and independent living services; and a majority of whom are individuals with disabilities and not employed by any state agency or center for independent living. Each member of the Council shall serve for a term of 3 years, except that a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term. Members of the council shall select a chair from among their number.

III. Membership of the Council shall include:
1. At least one director of a center for independent living chosen by the directors of centers for independent living within the state; and
2. As ex-officio, nonvoting members: a representative from the Idaho Board of Education's Vocational Rehabilitation office and representatives from other state agencies (such as the Industrial Commission, the Commission for the Blind and Visually Impaired, etc.) that provide services for individuals with disabilities.
3. Additional members: the council may also include other representatives from centers for independent living; parents and guardians of individuals with disabilities; advocates of and for individuals with disabilities; representatives from private businesses; representatives from organizations that provide services for individuals with disabilities; and other appropriate persons.

This Executive Order repeals and replaces Executive Order No. 93-01. 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 sixteenth day of June in the year of our Lord nineteen hundred ninety-seven and of the Indepen-

dence of the United States of America the two hundred twenty-first and of the Statehood of Idaho the one hundred seventh.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 97-11

DESIGNATION OF THE FARMWORKER RESOURCE COMMITTEE AS AN ADVISORY COMMITTEE TO THE GOVERNOR REPEALS AND RESCINDS EXECUTIVE ORDER NO. 93-07

WHEREAS, Idaho's economic well-being depends in part on the farmworkers, both local and migrant, who are critical to the state's agricultural enterprises; and

WHEREAS, a number of local, state, and federal governmental and non-governmental programs provide health, education, safety, housing, employment, spiritual, legal, financial, and other services to this important segment of Idaho's population; and

WHEREAS, coordination and cooperation among those entities is important to providing needed services in the most efficient manner possible and to planning for future activities to support Idaho's farmworkers and their families;

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 order:

1. The Farmworker Resource Committee is continued as an advisory body to the Governor and, when necessary, to the Idaho Commission on Hispanic Affairs.
2. State agencies and commissions that provide services or protection to farmworkers and their families shall designate representatives to the committee. Those agencies include the Department of Agriculture, the Department of Labor, the Department of Health and Welfare, the State Department of Education, the Division of Vocational Education, the Division of Vocational Rehabilitation, the Idaho Human Rights Commission, the Industrial Commission, and the Idaho Commission on Hispanic affairs, and any other agency or commission that wishes to be represented on the Farmworker Resource Committee.
3. Local, federal, private, volunteer, community, or other entities that have interests in farmworker issues are encouraged to send representatives to attend meetings of the Farmworker Resource Committee.
4. The responsibilities of the Farmworker Resource Committee include:
   a. Improving coordination and cooperation among the various

public and private agencies and providers that offer services to Idaho's farmworker population.

b. When necessary, making recommendations to the appropriate entities on needed services or ways to improve programs to better meet the needs of Idaho's farmworker population.

c. At least once each year, submitting a written report on activities and recommendations to the Office of the Governor and to the Idaho Commission on Hispanic Affairs.

This Executive Order repeals and replaces Executive Order No. 93-07. 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 second day of July in the year of our Lord nineteen hundred ninety-seven and of the Independence of the United States of America the two hundred twenty-first and of the Statehood of Idaho the one hundred seventh.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 97-12

AUTHORIZING THE ESTABLISHMENT OF A GAMING STUDY COMMITTEE PROVIDED AS A SUPPLEMENT TO EXECUTIVE ORDER 97-06

WHEREAS, in 1992 at an Extraordinary Legislative Session the legislature of the State of Idaho adopted and the voters approved H.J.R. No. 4 at the general election that year; and

WHEREAS, H.J.R. No. 4 amended Section 20, Article III, of the Constitution of the State of Idaho and clarified that gambling is contrary to public policy in Idaho and is prohibited except for a state lottery, pari-mutuel betting, and bingo and raffle games operated by qualified charitable organizations; and

WHEREAS, H.J.R. No. 4 also prohibited any form of casino gambling including, but not limited to, blackjack, craps, roulette, poker, baccarat, keno and slot machines and prohibited the employment of any electronic or electromechanical imitation or simulation of any form of casino gambling; and

WHEREAS, certain games of chance are being operated on Idaho Indian reservations that are the subject of dispute as to whether they are authorized pursuant to the Indian Gaming Regulatory Act; and

WHEREAS, it is important for the state to promote economic devel-

opment upon Indian reservations in a manner that is consistent with the public policy of Idaho; and

WHEREAS, there has been a trend in recent years toward increased gaming on and off reservations in Idaho which raises extremely important public policy concerns; and

WHEREAS, both the Executive Branch and Legislative Branch of Idaho government have recognized the need to study gaming in Idaho;

NOW THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, do hereby, by virtue of the authority vested in me by law, rder the following:

1. The Gaming Study Committee is hereby established and shall consist of the following representatives to be appointed by the Governor:
   a. The Lieutenant Governor of the State of Idaho shall be the chairman of the committee.
   b. The Coeur d'Alene, Kootenai, Nez Perce, and Shoshone-Bannock Tribes shall each be requested to designate one representative on the committee recognizing that each of these tribes is engaged in significant gaming activities.
   c. Two representatives shall be appointed from the Idaho Senate and two representatives shall be appointed from the Idaho House of Representatives.
   d. Four Idaho citizens who are knowledgeable and/or concerned about the social and cultural side effects of gaming activities, including one citizen associated with law enforcement, shall be appointed.
   e. The offices of the Idaho Governor and Attorney General shall be requested to provide assistance to the committee.
   f. Each member of the committee shall have one vote, except that the chairman shall not be entitled to vote.
   g. The Shoshone-Paiute Tribes shall designate one member to assist the committee in an advisory capacity. That member shall not be entitled to vote upon motion or recommendation of the committee. The member shall be entitled to voice the Tribes' concerns, question any person or organization who testifies before the committee and submit any information on the Tribes' behalf.
2. The committee is established to accomplish the following:
   a. The committee is directed to collect information and gain expertise as to the social and economic costs and benefits of gaming activities.
   b. The committee is directed to develop informed and thoughtful recommendations with respect to gaming in the State of Idaho and the committee shall proceed in such a manner that this will be the result.
   c. Without intending to limit the scope of the committee's recommendations, the committee is urged to offer recommendations regarding the desirable scope of state lottery games and specifically whether the state lottery should be allowed to engage in video gaming activities. The committee is urged to make recommendations regarding

the desirable extent of simulcast betting. The committee is also urged to make recommendations regarding state policy toward tribal gaming. It is understood that while the committee does not make legal decisions, the committee may need to be briefed regarding legal issues in order to make informed recommendations.

d. Timely recommendations are extremely important to the state's policy-makers. Therefore, the committee is requested to work as intensively as possible and to report its recommendations to the Governor by November 1, 1997. This will allow for serious review of the recommendations prior to the 1998 Legislative session and will allow review of the recommendations by the 1998 Legislature.

e. The committee shall serve without compensation, but shall be reimbursed for actual travel expenses not to exceed state guidelines.

f. Committee travel and staffing expenses shall be paid by the Idaho Lottery.

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 Capitol, the ninth day of July, in the year of our Lord nineteen hundred ninety-seven, and of the Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 97-13

ESTABLISHING THE IDAHO COMMITTEE ON INDIAN EDUCATION

WHEREAS, it is important to recognize and affirm the sovereignty of each of the Indian tribes in Idaho; and

WHEREAS, a positive working relationship between the tribal and state governments to improve the educational success of Idaho Indians benefits the tribes and the entire state of Idaho; and

WHEREAS, representatives of the Nez Perce Tribe, the Coeur d'Alene Tribe, the Kootenai Tribe, the Shoshone-Bannock Tribes, the Shoshone-Paiute Tribes, and the Northwestern Band of the Shoshoni Nation, have worked jointly with the state through the Idaho Committee on Indian Education to set goals and make recommendations for improving the quality of Indian education in Idaho; and

WHEREAS, the goal of the Idaho Committee on Indian Education is to help ensure that all Indian students in Idaho achieve academic success in schools; and

WHEREAS, the committee has recognized the following seven common goals:

1. To help prepare Indian children for future educational experiences by providing early childhood education programs that are culturally, linguistically, and developmentally appropriate;
2. To establish a primary and secondary school environment that respects, maintains and promotes American Indian values, languages, and traditions;
3. To increase recruitment, retention and graduation rates of Indian students in Idaho's colleges and universities and to increase the number of Indian faculty and professional staff at Idaho schools;
4. To encourage Indian parents and tribal leaders to participate in the education of Indian students;
5. To assist in raising the self-esteem and cultural pride of Indian students;
6. To develop comprehensive guidance and counseling programs in Idaho schools that meet the career, education/training, personal and social needs of Indian students and their families; and
7. To expand Adult Basic Education programs to benefit Indians.

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. At the request of the Superintendent of Public Instruction, that the Idaho Committee on Indian Education be established to assist the Idaho State Department of Education in educational issues that affect Idaho Indians.
2. That the committee undertake any studies or evaluations as requested by the

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 Capitol, the seventeenth day of July in the year of our Lord nineteen hundred ninety-seven and of the Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 97-14

AUTHORIZING THE TRANSFER OF FUNDS TO THE DISASTER EMERGENCY ACCOUNT

WHEREAS, on the eighth day of February 1996, the twenty-seventh day of December 1996 and the eighteenth day of May 1997, due to severe flooding in various parts of the state of Idaho; by virtue of the authority in me, as Governor, by Idaho Code Sections 46-601 and 46-1008, I issued proclamations declaring that states of extreme and disaster emergencies existed for all counties in Idaho; and

WHEREAS, tremendous financial obligations and expenses have been and will be incurred by various departments and agencies of the state of Idaho in responding to and assisting in efforts to deal with this extreme flooding emergency; and

WHEREAS, all funds in the Disaster Emergency Account created by Idaho Code Section 46-1005A have or soon will be expended; and

WHEREAS, 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, it is my judgment, as Governor of the state of Idaho, that any moneys transferred from the General 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 the authority vested in me under the Constitution and laws of this state do hereby order as follows:

1. The state controller is directed to transfer moneys in the General 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 General 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 the Capitol in Boise on this fourth day of September in the year of our Lord nineteen hundred ninety-seven and of the

Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 97-15

ESTABLISHMENT OF THE GOVERNOR'S AFFORDABLE HOUSING ADVISORY TASK FORCE REPEALING AND REPLACING EXECUTIVE ORDER 97-04

WHEREAS, the availability of affordable housing for all Idahoans is important in building strong families and communities, and is critical to Idaho's ongoing economic development; and

WHEREAS, the increasing cost of housing, coupled with the reduction in available federal resources, is making both home ownership and rental homes less affordable; and

WHEREAS, the Idaho Housing and Finance Association was created by the state of Idaho to provide financing for affordable housing to Idaho's limited-income citizens and to administer federal housing funds and financing programs on behalf of the state; and

WHEREAS, the Idaho Department of Commerce assists communities with infrastructure and economic development grants which create a need for affordable housing and in some cases may be used for housing activities; and

WHEREAS, cities, counties, local housing authorities, nonprofits, developers, banking institutions and other community and real estate organizations also are concerned with the continuing finance and development of affordable housing; and

WHEREAS, a state study of the role each of these organizations play in providing affordable housing and an assessment of how existing affordable housing resources are used are necessary to develop a state affordable housing policy in Idaho and a way to involve the general public in decisions;

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 establish the Governor's Affordable Housing Advisory Task Force as follows: I. PURPOSE

A. The Governor's Affordable Housing Advisory Task Force will:

Educate itself about the current and projected housing needs within Idaho.

Educate itself about the available resources from private industry, government, nonprofit organizations and other sources for meeting Idaho's affordable housing needs.

Assess the effectiveness of how existing scarce resources are being used in addressing Idaho's housing needs, identifying opportunities for improvement.

Evaluate a variety of options to leverage market resources, remove regulatory barriers, consolidate programs, and place decision-making authority at appropriate levels.

Evaluate appropriate roles for the various state, federal and local government agencies involved in providing affordable housing funds in order to develop a coordinated state affordable housing policy.

Prepare a final report of recommendations to the Governor as soon as possible but no later than October 31, 1997. II. COMPOSITION AND STAFFING

A. The Governor's Affordable Housing Advisory Task Force will be composed of no more than 17 members. Members will be appointed by the Governor and will serve at his pleasure.

B. The Idaho Housing Finance Association and the Idaho Department of Commerce will provide staff and administrative support to the Council.

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 twenty-fifth day of September in the year of our Lord nineteen hundred ninety-seven and of the Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 97-16

ESTABLISHMENT OF THE IDAHO ALCOHOL AND DRUG-FREE WORKPLACE POLICY REPLACING EXECUTIVE ORDER 93-08

WHEREAS, the State of Idaho has a vital interest in maintaining a safe, healthy, and efficient working environment for its employees, clients and the public; and

WHEREAS, employees impaired by alcohol or other drugs during work hours pose safety and health risks not only to themselves but to others; and

WHEREAS, employees who use illegal drugs, whether on or off duty, are generally less productive, less reliable and prone to greater absenteeism than employees who do not use drugs; and

WHEREAS, the use of illegal drugs by state employees is inconsistent with the law-abiding behavior expected of all citizens, and with the special trust placed in such employees as servants of the public; and

WHEREAS, the use of alcohol or drugs by state employees in certain positions of sensitivity poses a special risk to public safety and the effective enforcement of the law; and

WHEREAS, the use of alcohol or drugs becomes a matter of concern to the State of Idaho when it interferes with job performance, conduct, attendance, or safety of state employees; and

WHEREAS, the State of Idaho, as an employer, has a responsibility to taxpayers to ensure that state functions are performed efficiently and without undue risk to the people of the state; and

WHEREAS, the State of Idaho, as an employer, is also concerned with the well-being of its employees and should encourage the identification and rehabilitation of employees with alcohol or drug problems;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Idaho, do hereby order the following Idaho Alcohol and Drug-Free Workplace Policy to become effective immediately for all employees of the State of Idaho:

1. the consumption of alcohol on the job is prohibited. Employees may not work if their performance is impaired by the use of alcohol;
2. the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited, and if occurring on state property or during an employee's hours of work, demands immediate corrective action;
3. each state agency shall provide employees with information on Idaho's Alcohol and Drug-Free Workplace Policy, as well as information on the state's Employee Assistance Plan;
4. violations of the Idaho Alcohol and Drug-Free Workplace Policy will be cause for management/supervisor intervention and may result in referral to treatment, including participation in the Employee Assistance Program. It shall be the policy of the State of Idaho to direct its efforts toward rehabilitation whenever reasonable;
5. any intervention steps taken upon a violation of the Idaho Alcohol and Drug-Free Policy must be consistent with all due process requirements and other constitutional rights of state employees;
6. the privacy rights of employees are important. Any intervention steps taken upon a violation of the Idaho Alcohol and Drug-Free Workplace Policy, including a referral for treatment, counseling or rehabilitation programs, shall include procedures to protect the confidentiality of treatment records as well as the employee's identity;
7. the director of each agency shall report quarterly, the first of January, April, July, and October, to the Personnel Commission any violations of the Idaho Alcohol and Drug-Free Workplace Policy and the corrective actions taken. "Quarterly" means the report shall be filed the first day of January, April, July, and October. The report shall, to the extent practicable, protect the confidentiality of the employee involved, but shall describe the nature of the employee's position;

8. the Personnel Commission shall annually compile information regarding violations of this policy and the corrective actions taken and report this information by June 30 to the Governor. Any information so reported shall be reported in a manner to avoid revealing the identity of the employees involved. The Personnel Commission, when it compiles this data, shall do so by type of position so as to determine whether there is an alcohol or drug problem in any "safety-sensitive" positions;
9. whenever there is an alcohol or drug problem in a "safety-sensitive" position, it is critical that the problem be addressed aggressively. For the purpose of this policy, a "safety-sensitive" position is one in which:
   a. the duties involve a greater-than-normal level of trust for, responsibility for, or impact on the health and safety of the employee or others; and
   b. errors in judgment, inattentiveness or diminished coordination, dexterity, or composure while performing the duties could clearly result in mistakes that would endanger the health and safety of the employee or others; and
   c. employees in these positions work with such independence that it cannot be safely assumed that mistakes such as those described in subsection (b) could be prevented by a supervisor or another employee;
10. in the event the Personnel Commission finds an alcohol or drug problem in any agency or classification, it shall report that to the Governor, and the agency, working in conjunction with the Personnel Commission and the Governor, shall develop a program to respond to the problem. This program may include alcohol or drug testing for employees in safety-sensitive classifications where such a problem has been documented;
11. all state agencies responsible to the Governor are directed, and all other public entities are requested, to assist the Personnel Commission in discharging its responsibilities under this order;
12. nothing in this order shall be deemed to abrogate any existing policy or directive relating to alcohol or drug use by state employees or to affect any existing or future state employee disciplinary proceeding; and
13. where federal laws or regulations require the state to implement more stringent regulations than those contained in this policy, those federal regulations and procedures supersede and/or augment this policy.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this thirtieth day of October in the year of our Lord nineteen

hundred ninety-seven and of the Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 97-17

ESTABLISHING STATEWIDE POLICIES ON COMPUTER, THE INTERNET AND ELECTRONIC MAIL USAGE BY STATE EMPLOYEES

WHEREAS, computers, the Internet and electronic mail are powerful research, communication and time-saving tools that are made available to state employees; and

WHEREAS, like any tools, computers, the Internet and electronic mail have the potential to be used for inappropriate purposes; and

WHEREAS, perceptions are important and state employees must constantly be aware of how their actions are perceived by the 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: The following statewide policies on computer, the Internet and electronic mail usage shall be observed by all state employees:

1. The following uses are acceptable and encouraged:
   a. Communications and information exchanges directly relating to the mission, charter and work tasks of the state agency;
   b. Announcements of state laws, procedures, hearings, policies, services or activities;
   c. Use for advisory, standards, research, analysis and professional society or development activities related to the user's state governmental duties; and
   d. Use in applying for or administering grants or contracts for state government research programs.
2. It is unacceptable to knowingly or intentionally submit, publish, display, transmit, retrieve or store on the network or on any computer system any information or image which:
   a. Violates or infringes on the rights of any other person, including the right to privacy;
   b. Contains defamatory, false, inaccurate, abusive, obscene, pornographic, profane, sexually oriented, threatening, racially offensive or otherwise biased, discriminatory or illegal material;
   c. Violates state government regulations prohibiting sexual harassment;
   d. Restricts or inhibits other users from using the system

or the efficiency of the computer systems;

e. Encourages the use of controlled substances or uses the system for the purpose of criminal intent;

f. Uses the system for any other illegal purpose;

g. Contains incendiary statements which might incite violence or describe or promote the use of weapons or devices associated with terrorist activities.

3. It is also unacceptable for a state employee to use the facilities and capabilities of the system to:

a. Conduct any non-approved business;

b. Solicit the performance of any activity that is prohibited by law;

c. Transmit materials, information, images, or software in violation of any local, state or federal law;

d. Conduct any political activity;

e. Conduct any non-governmental-related fund raising or public relations activities;

f. Engage in any activity for personal gain or personal business transactions;

g. Make any unauthorized purchases.

h. Use any and all games on state government-provided computer equipment.

i. Use unauthorized screen savers;

j. Place advertisements for commercial enterprises including but not limited to goods, services or property;

k. Abuse electronic mail privileges. An occasional note to another person, similar to a telephone call is acceptable; or

l. Download, disseminate, store or print copyrighted materials, including articles and software, in violation of copyright laws.

m. Promote or advertise any non-profit charitable organization or event.

4. The following sanctions shall be imposed by state government agencies for violations of the above policies:

a. Upon the first abuse of this policy, the staff member will receive at a minimum: a verbal warning of the infraction.

b. pon the second occurrence of abuse, the staff member will receive at a minimum: a written reprimand placed in the employee's permanent file.

c. Upon the third occurrence of abuse, the employee may receive additional sanctions deemed appropriate by the state agency head, up to, and including dismissal.

5. The above policies are the minimum standards for usage of computers, the Internet and electronic mail. Individual state agencies may implement more restrictive policies as long as those policies are consistent with those developed by the Governor's Information Technology Resource Management Council (ITRMC).

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 thirtieth day of October in the year of our Lord nineteen hundred ninety-seven and of the Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 97-18

CREATING THE BOARD OF JUVENILE CORRECTIONS AND DESIGNATING IT AS THE PRIMARY ADVISORY BODY FOR THE GOVERNOR AND THE DEPARTMENT DIRECTOR ON MATTERS PERTAINING TO JUVENILE CORRECTIONS

WHEREAS, an independent body would provide valuable recommendations on fiscal, policy and administrative matters concerning juvenile corrections to the Governor and the Director of the Department; and

WHEREAS, an independent body would provide an unique perspective on the development of goals, standards and measures to evaluate the effectiveness and efficiency of the Department of Juvenile Corrections and its programs;

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 Board of Juvenile Corrections is hereby designated the primary advisory body for the Governor and the Department Director on matters pertaining to juvenile corrections.
2. The Board shall be responsible for advising the Governor and the Department Director on fiscal, policy and administrative matters concerning Idaho's Juvenile Corrections system.
3. The Board shall be responsible for the development of goals, standards and measures to evaluate the effectiveness and the efficiency of the Department of Juvenile Corrections and its programs.
4. The Juvenile Justice Commission shall be responsible for advising the Board on local and district juvenile corrections issues.
5. The Board shall consist of the following members:
   a) Three Idaho citizens
      1. Who shall be appointed by, and serve at the pleasure of the Governor.
      2. Who shall initially serve staggered terms of two, four and six years.

3. Upon expiration of the initial terms, appointments shall be for six-year terms.

b) The Chair of the Senate Judiciary and Rules Committee who shall serve on a voluntary basis.

c) The Chair of the House Judiciary, Rules and Administration Committee who shall serve on a voluntary basis.

6. The Board shall serve without compensation, but shall be reimbursed for actual travel expenses not to exceed state guidelines.

7. The Board's travel expenses shall be paid by the Department of Juvenile Corrections.

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 Fifth day of November in the year of our Lord nineteen hundred ninety-seven and of the Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-01

CONTINUING A SYSTEM FOR ALLOCATING VOLUME CAP IN THE STATE CONSISTENT WITH THE PROVISIONS OF TITLE 50, CHAPTER 28, IDAHO CODE, AND THE U.S. INTERNAL REVENUE CODE OF 1986, REPEALING AND REPLACING EXECUTIVE ORDER NO. 94-08

WHEREAS, Section 146 of the U.S. Internal Revenue Code of 1986 (the "Code") subjects certain private activity and non-private activity bonds to volume limitations or "volume cap" (the "Volume Cap"); and

WHEREAS, as required by Section 146(e) of the Code, the Idaho Legislature did adopt the provisions of Title 50, Chapter 28, Idaho Code, (the "State Law") to provide a permanent allocation formula for Volume Cap in the state; and

WHEREAS, Section 50-2804 Idaho Code, authorizes and directs the Governor of the State of Idaho to provide for the implementation and administration of the allocation formula established under Section 50-2803, Idaho Code, by executive order and the Governor did issue his Executive Order No. 94-08 providing therefor; and

WHEREAS, in order to renew the provisions contained in said Execu-

tive Order No. 94-08 and to continue to provide for the implementation and administration of the formula for allocation of the Volume Cap among the state and its issuing authorities under the State Law, it is necessary and desirable to issue this Executive Order;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the power vested in me by the Constitution and laws of the State of Idaho, do hereby order and proclaim:

Section 1: As used in this Executive Order:

(1) "Allocation Dollars" means the dollar amount of the Volume Cap expressed in terms of dollars. Each allotment dollar equals one dollar of Volume Cap that may be allocated under this Executive Order and the State law.

(2) "Bonds" means any obligations for which an allocation of the Volume Cap is required by the Code and the State Law.

(3) "Certificates" means mortgage credit certificates described in Section 25 of the Code. With respect to any allocation of Allotment Dollars for the purpose of issuing certificates, certificates will be deemed "issued" when the mortgage credit certificate program for which the allocation is made is implemented.

(4) "Code" means the Internal Revenue Code of 1954, as amended by the Reform Act of 1986 and renamed the Internal Code of 1986, and any related regulations.

(5) "Department" means the Department of Commerce of the State.

(6) "Director" means the director of the Department or such other official or officials of the Department as the director shall designate to carry out the duties of the director set forth in this Executive Order.

(7) "Form 8038" means Department of the Treasury tax form 8038 (OMB NO. 1545-0720) or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the Code.

(8) "Issuing Authority" means

(a) any county, city or port district;

(b) any public corporation created pursuant to Section 50-2703 of the Idaho Code, or other entity acting on behalf of one or more counties, cities, or both;

(c) the State; or

(d) any other entity authorized to issue Bonds or Certificates in the State.

(9) "Program" means the program to be financed in whole or in part with the proceeds of the sale of Bonds or to be implemented through the issuance of Certificates.

(10) "Project" means the facility to be financed in whole or in part with the proceeds of sale of Bonds.

(11) "Qualifying Carryforward Project or Program" means a Project or Program qualifying for carryforward under Section 146(f) of the Code.

(12) "State" means the state of Idaho, any of its agencies, instrumentalities, institutions and divisions authorized to issue Bonds or Certificates under State law.

(13) "State Law" means Title 50, Chapter 28, Idaho Code, as amended.

(14) "Volume Cap" means the volume cap for the State as computed under Section 146 of the Code.

(15) "Year" means each calendar year beginning January 1, 1998.

Section 2.

The Volume Cap for each Year is allocated to Issuing Authorities in accordance with the procedures set forth in this Executive Order. An allocation of the Volume Cap may be obtained by submitting an application to the Director in accordance with Section 3 or Section 5, as appropriate. The Director shall evidence a grant of an allocation of the Volume Cap by issuing a certificate of allocation in accordance with Section 4 or Section 5, as appropriate.

Section 3.

(1) Any Issuing Authority proposing to issue Bonds or Certificates shall, prior to the issuance of such Bonds or Certificates, submit an application to the Director which contains the following information and attachments:

(a) the name of the Issuing Authority;

(b) the mailing address of the Issuing Authority;

(c) the tax identification number of the Issuing Authority;

(d) the name, title and office telephone number of the official of the Issuing Authority to whom notices should be sent and from whom information can be obtained;

(e) the principal amount of Bonds or Certificate proposed to be issued for which an application for an allocation of the Volume Cap is requested;

(f) the nature, the purpose and the specific location of the Project or the type of Program;

(g) the initial owner or user of the Project or Program, if other than the Issuing Authority;

(h) a copy of a valid and fully executed resolution or similar official action of the Issuing Authority evidencing its intention to issue Bonds or Certificates for the Project or Program;

(i) with respect to Bonds, the anticipated date on which the Bonds are expected to be sold and the anticipated date on which the closing or final transaction with respect to the issuance and sale of the Bonds is expected to occur and, with respect to Certificates, the anticipated date on which the Certificates are expected to be issued;

(j) the name, address, and telephone number of all parties to the transaction;

(k) the applicable provisions of the Code under which the Bonds or Certificates are expected to be issued; and

(l) if the purpose of the Project or the Program includes the provision of housing, then the Issuing Authority shall furnish a letter from the Executive Director of the Idaho Housing and Finance Association confirming that there appears to be a need which would be served by such housing in the area where the Project is to be located;

(m) any other information or attachments reasonably required

by the Director.

(2) The Director shall

(a) establish the form of application for requests for allocations of the Volume Cap, which form shall contain the information required by Section 3(1), and

(b) make such forms available to the public upon request.

(3) The Director shall be under no obligation to process any application that is incomplete. Any application submitted by an Issuing Authority that the Director does not process shall be returned by the Director on or before the fifteenth day after receipt thereof with a brief explanation as to why the application was not processed.

Section 4.

(1) Except as otherwise provided in this Executive Order, on or before the fifteenth day after receipt by the Director of an application for an allocation of the Volume Cap, the Director shall, if the application is in satisfactory order, make the requested allocation in the amount so requested, if available, and certify to the Issuing Authority applying for the allocation that an allocation has been made, the amount of such allocation. Certificates of allocation evidencing the granting of an allocation by the Director shall be issued by the Director in the chronological order in which completed applications are received. No Issuing Authority issuing Bonds or Certificates is entitled to any allocation of the Volume Cap with respect to such Bonds or Certificates unless it has first received the aforementioned certificate of allocation from the Director evidencing the granting of an allocation for such Bonds or Certificates.

(2) Every allocation of the Volume Cap granted under this Executive Order by the Director for which Bonds or Certificates have not been issued with respect to such allocation, except those grants made pursuant to Section 5, shall remain effective until, and including, the earlier of

(1) the ninetieth day after the date on which such allocation was made,

(2) 12:00 o'clock midnight on December 30 of the Year in which such allocation was made, or

(3) the date upon which the Director receives a written notification from any such Issuing Authority pursuant to Section 7(2). Any allocation for which Bonds or Certificates are issued on or prior to the applicable date specified in this subsection shall be irrevocably allocated to such Bonds or Certificates.

(3) Until and including December 30 of each Year, any allocation of Allotment Dollars made in such Year, except allocations made pursuant to Section 5, for which Bonds or Certificates are not issued on or prior to the applicable date specified in Section 4(2) shall be available for reallocation to applying Issuing Authorities. On December 31 of each Year, any allocation of Allotment Dollars made in such Year for which Bonds or Certificates are not issued on or prior to the applicable date specified in Section 4(2) shall become avail-

able for reallocation only for Qualifying Carryforward Projects or Programs. In either case, such reallocations shall be made in the same manner as for original allocations of Allotment Dollars.

(4) No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if the amount of allocation of the Volume Cap requested in such application is in excess of the amount of Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in the chronological order in which received, granting allocations pursuant to the provisions of this Executive Order.

Section 5.

(1) Issuing Authorities with Qualifying Carryforward Projects or Programs may apply for an allocation of Allotment Dollars for such Qualifying Carryforward Projects or Programs by submitting an application to the Director which shall contain:

(a) the carryforward purpose for the bonds or Certificates under Section 146(f) of the Code;

(b) any other information required by Section 146(f) of the Code;

(c) a certification signed by both an official of the Issuing Authority responsible for the supervision of the issuance of the Bonds or Certificates and, if applicable, a representative of the person or entity constructing, acquiring, or rehabilitating the Project or administering the Program, stating that the Issuing Authority and, if applicable, such person or entity, will proceed with diligence to ensure the issuance of the Bonds or Certificates within the carryforward period provided by Section 146(f) of the Code;

(d) a preliminary opinion from bond counsel that the Project or Program qualifies for carryforward under Section 146(f) of the Code, if applicable;

(e) if applying for an allocation of Allotment Dollars for the purpose of issuing Certificates, the amount of qualified mortgage bonds defined in Section 143 of the Code which the Issuing Authority elects not to issue under the Code; and

(f) such other information and attachments as are set forth in Section 3(1).

(2) No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if at the time such application is considered the amount of allocation of the Volume Cap requested in such application is in excess of the amount of the Volume Cap remaining available for allocation. Any application not processed for the reason

stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in the chronological order in which received, granting allocations pursuant to the provisions of this Executive Order.

(3) Allocations of the Volume Cap for Qualifying Carryforward Projects or Programs shall be granted by the Director in the amount requested by the applying Issuing Authority, if available, on or after December 1, but no later than December 31, of the Year in which an application in satisfactory order is submitted to the Director for an allocation of the Volume Cap for a Qualifying Carryforward Project or Program in chronological order in which applications for such allocations are received. The Director shall issue certificates of allocation evidencing the granting of an allocation within the time period specified in the preceding sentence to each Issuing Authority which applied to the Director and which received an allocation of the Volume Cap for a Qualifying Carryforward Project or Program of such Issuing Authority, such certificates of allocation to be similar to the certificates of allocation described in Section 4, stating the amount of Allotment Dollars which have been allocated to such Issuing Authority, specifying the Qualifying Carryforward Project or Program for which the allocation has been made and specifying the expiration date of the allocation, as provided by Section 145(f) of the Code.

Section 6.

No application submitted to the Director may be amended without the consent of the Director; provided, however, that no such consent shall be required for an Issuing Authority to submit a new application in order to replace a previously submitted application if such new application is submitted before an allocation is made on the basis of the original application; provided further, that the consent of the Director shall not be required for an Issuing Authority to withdraw a previously submitted application. For purposes of receiving an allocation of the Volume Cap, any application that has been amended shall be treated as though such application was submitted on the date that the amendment was made, rather than on the date of the original submission of such application.

Section 7.

(1) After the effective date of this Executive Order, any Issuing Authority issuing Bonds or Certificates without a certificate or allocation of the Director issued pursuant to Section 4 or Section 5, as appropriate, evidencing the granting of an allocation for such Bonds or Certificates, or any Issuing Authority issuing Bonds or Certificates after the expiration of an allocation under Section 4 or Section 5, as appropriate, is not entitled to any allocation of the Volume Cap for

such Bonds or Certificates, and any Issuing Authority issuing Bonds or Certificates in excess of the allocation set forth in the certificate of allocation is not entitled to any allocation of the Volume Cap for such excess.

(2) Each Issuing Authority shall

(a) advise the Director on or before the earlier of the sixtieth day after the issuance of any Bonds or Certificates or December 30 of each Year, of the principal amount of Bonds or Certificates issued under the allocation set forth in each certificate of allocation issued by the Director evidencing the granting of an allocation for such Bonds or Certificates by delivering to the Director a copy of the Form 8038 which was delivered to the Internal Revenue Service in connection with such Bonds or Certificates, or, if no such form was required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the Director with respect to such Bonds or Certificates, or

(b) if all or a stated portion of such Bonds or Certificates will not be issued, shall advise the Director in writing, on or before the earlier of

(i) the fifteenth day after the earlier of

(A) the final decision not to issue all or a stated portion of such Bonds or Certificates or

(B) the expiration of the allocation, or

(ii) December 30 of the Year in which the allocation for such Bonds or Certificates was made.

(3) Each Issuing Authority shall cooperate with the Director in furnishing any information the Director reasonably requires. If an Issuing Authority obtains an allocation of a portion of the Volume Cap for a particular Project or Program from the Director as provided in Section 4 or Section 5, as appropriate, but does not issue its Bonds or Certificates within the prescribed time limit, or issues a lesser amount of Bonds or Certificates within the prescribed time limit, such Issuing Authority may again submit an application with respect to the proposed Bonds or Certificates or portion of such Bonds or Certificates not issued for such Project or Program as provided in Section 4 or Section 5, as appropriate. Such application shall be treated as a new application.

Section 8.

(1) In addition to the duties otherwise specifically set forth in this Executive Order, the Director shall:

(2) determine the amount of Allotment Dollars available on December 31 of each Year for allocation for Qualifying Carryforward Projects or Programs and allocate the Allotment Dollars available for Qualifying Carryforward Projects or Programs as provided in this Executive Order;

(3) maintain a record of all applications filed by Issuing Authorities under Section 3 and Section 5 and all certificates of allocation issued under Section 4 and Section 5;

(4) maintain a record of all Bonds or Certificates issued by

Issuing Authorities during each Year;

(5) maintain a record of all information filed by Issuing Authorities under this Executive Order;

(6) make available upon reasonable request a certified copy of all or any part of the records maintained by the Department under this Executive Order or a summary thereof including information regarding the Volume Cap for each Year and any amounts available or at any time remaining available, for allocation under this Executive Order;

(7) the Director shall serve as the State official designated under State law to make any certifications required to be made under the Code including, without limitation, the certification required by Section 149(e)(2)(F) of the Code; and

(8) promulgate reasonable rules not inconsistent with this Executive Order deemed necessary or expedient to allocate the Volume Cap hereunder.

Section 9.

If any provision of this Executive Order shall be held to be, or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this Executive Order or render it invalid, inoperative, or unenforceable. To the extent this Executive Order shall be held or shall, in fact, be invalid inoperative, or unconstitutional, all allocations of the Volume Cap previously made under this Executive Order shall be treated as allocations made by the Governor of the State in accordance with provisions of the State Law.

Section 10.

This Executive Order replaces Executive Order No 94-08, provided that such replacement shall not affect any allocations in the State made prior to the effective date hereof pursuant to any other Executive Orders or laws of the State.

Section 11.

The State pledges and agrees with the owners of any Bonds or Certificates to which an allocation of the Volume Cap has been granted under this Executive Order that the State will not retroactively alter the allocation of the Volume Cap to such Bonds or Certificates.

Section 12.

No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt or liability of the State or be deemed to constitute an approval of any obligation issued or to be issued hereunder.

Section 13.

The purpose of this Executive Order is to maximize the benefits of financing and development through the use of Bonds and Certificates providing a system for the implementation and administration of the formula specified in the State Law for allocating the Volume Cap within the meaning of Section 146 of the Code.

Section 14.

This Executive Order shall be effective immediately and shall continue in effect until such time as it may be repealed or superseded by operation of State or Federal law. Notwithstanding the foregoing, allocations for Qualifying Carryforward Projects or

Programs pursuant to Section 5 hereof shall remain effective for the term of such allocation provided for in Section 146(f) of the Code.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twentieth day of January in the year of our Lord nineteen hundred ninety-eight and of the Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-02

CONTINUING STATE OF IDAHO COMPREHENSIVE SAFETY AND LOSS CONTROL POLICY REPEALING AND REPLACING EXECUTIVE ORDER NO. 95-13

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 potential new state employees are

appropriately screened, that new employees are systematically and fully trained in safe work practices and the use of 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 adherence to safety practices is a criterion in employee and supervisor performance evaluations.

3. Each Department Director or other appointing authority will continue to assume responsibility for reviewing loss reports and accidents involving bodily injury, or property or environmental damage, and to take corrective action to avoid future loss. Where appropriate, assistance from the agencies listed below should be requested to develop and implement appropriate corrective or preventive measures. Each Department Director or other appointing authority may delegate the authority to perform these duties to a safety officer or committee but shall remain responsible for the performance of the agency's safety and loss control program.

4. All buildings owned or maintained by any state government agency or entity, or which are constructed or renovated specifically for use or occupancy by any such agency or entity shall conform to all existing state codes, including but not restricted to, the Idaho General Safety and Health Standards, 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 buildings owned or maintained by the State of Idaho where appropriate, construction plans shall be reviewed and approved by the Division of Building Safety, the State Fire Marshal's Office, and the Permanent Building Fund Advisory Council.

5. The following agencies shall continue to assist state agencies by offering the following services:
   a. The Division of Building Safety 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 Administrator of the Division of Building Safety, 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. Monitor and maintain a Statewide Safety and Loss Control Program model of a proactive nature supported by a system to track 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. Aid in the coordination of the services available to maximize efficiency and reduce unnecessary duplication of inspections;
   e. On behalf of the Governor, periodically 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. 95-13.

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 thirtieth day of January in the year of our Lord nineteen hundred ninety-eight and of the Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-03

AUTHORIZING THE ESTABLISHMENT OF A 2002 WINTER GAMES EXECUTIVE COMMITTEE

WHEREAS, the Winter Olympic Games to be held in Salt Lake City, Utah in the year 2002 presents an opportunity to be a good neighbor to the host state, while strengthening the economic vitality of Idaho through increased development activity and visitations to the state; and

WHEREAS, it is important to enhance the quality of life of all Idahoans by promoting increased economic opportunity consistent with Idaho's heritage and values; and

WHEREAS, Idaho could gain world recognition and prestige by attracting favorable attention, leading to increased interest in and visitations to the state; and

WHEREAS, it is important for the citizens of Idaho to continue to develop social and cultural values with others; and

WHEREAS, the 2002 Winter Games Strategy, a plan to accomplish the foregoing has been developed; and

WHEREAS, it is important that Idaho have an official committee to coordinate activities relating to the 2002 Winter Olympic Games in Salt Lake City with entities and individuals both inside and outside Idaho;

NOW THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by virtue of the authority vested in me by law, do hereby establish the 2002 Winter Games Executive Committee. The Committee shall:

1. Oversee Idaho's implementation of the 2002 Winter Games Strategy.
2. Serve as the official liaison for the State of Idaho with the International Olympic Committee, the Salt Lake City Olympic Organizing Committee, United States Olympic Committee, and other national Olympic committees, and sport federations.
3. Interact with federal agencies according to the implementation of the Idaho 2002 Winter Games Strategy.
4. Determine and develop economic, social, and cultural positive consequences.
5. Serve as the official liaison for the State of Idaho for the encouragement of private businesses, state agencies, tribes, and committees that wish to be involved with Idaho's strategy for the 2002 Winter Games.
6. Provide a work plan and budget to include possible revenue sources for implementation of the 2002 Winter Games Strategy.
7. Amend, modify or alter Idaho's 2002 Winter Games Strategy, as necessary to meet changing circumstances, challenges and opportunities.

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 chairpersons. Members of the Committee shall serve without compensation, but may be reimbursed for actual travel expenses not to exceed state guidelines.

The Committee shall consist of no more than 15 persons who are appointed by the Governor and serve at his pleasure. The membership

of the Committee shall include the Lieutenant Governor of the State of Idaho who shall serve as a co-chairman of the Committee, one member of the House of Representatives, one member of the Senate, the director of the Department of Commerce, and no more than 11 Idaho citizens who are knowledgeable and/or interested in the prosperity of Idaho. One of the 11 citizens shall also serve as co-chair with the Lieutenant Governor.

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 twelfth day of February in the year of our Lord nineteen hundred ninety-eight and of the Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-04

MEMORIALIZING THE SERVICE OF SECRETARY OF STATE PETE T. CENARRUSA AND DEDICATING THE STATE BUILDING LOCATED AT BLOCK 102 BOISE CITY ORIGINAL TOWNSITE, ACCORDING TO THE PLAT THEREOF FILED IN BOOK 1 OF PLATS AT PAGE 1 RECORDS OF ADA COUNTY, IDAHO, IN HIS HONOR

WHEREAS, Pete T. Cenarrusa's career of public service as a teacher, marine naval aviator, legislator, Speaker of the Idaho House of Representatives, and Secretary of State has spanned more than sixty years; and

WHEREAS, he has been a constant innovator and leader in the Idaho sheep and agricultural industries; and

WHEREAS, he has been inducted into the Agriculture, Athletic, Republican, and Basque Halls of Fame; and

WHEREAS, his dedication to our state and our people are worthy of lasting recognition and to preserve his place in Idaho's distinguished history;

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 that the State of Idaho Department of Health and Welfare building in the Capitol Mall area of the City of Boise be named in honor of Pete T. Cenarrusa and that a plaque commemorating his service to our state be placed therein.

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 first day of March in the year of our Lord nineteen hundred ninety-eight and of the Independence of the United States of America the two hundred twenty-second and of the Statehood of Idaho the one hundred eighth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

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Bd = Board
Com = Commission
Comm = Committee
Dept = Department
Dist = District
F&G = Fish and Game
H&W = Health and Welfare
INEEL = Idaho National Engineering & Environmental Laboratory
MV = Motor Vehicle
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APPENDIX

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)

Mailing Address:
700 W. Jefferson St.
P.O. Box 83720
Boise, Idaho 83720-0054

LEGISLATORS BY DISTRICT

1-BONNER & BOUNDARY COUNTIES

Shawn Keough (R), Senate . . . . . 1st Term
P.O. Box 101, Sandpoint 83864
Home 263-1839 Toll Free 1-888-453-6844
Information Specialist/Public Relations Husband - Mike
Agricultural Affairs, Commerce/Human Resources
Education

John L. Campbell (R), House Seat A . . . . . 1st Term
1509 Cedar St., Sandpoint 83864
Home 263-4774 Wife - Deceased
Semi-Retired - Fishing Tackle Mfg & Outdoor Columnist
Education, Local Government
Resources/Conservation

Jim Stoicheff (D), House Seat B . . . . . 13th 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 . . . . . 2nd Term
N. 17520 Wrangler Rd, Rathdrum 83858
Home 687-0591
Realtor/Rancher Wife - "Bing" Karen
VICE CHAIR--Judiciary/Rules
Health/Welfare, Transportation

Hilde Kellogg (R), House Seat A . . . . . 3rd Term
(Served 4 terms House, 1983-91)
P.O. Box 1479, Post Falls 83854-1479
Phone 773-5412
Businesswoman
VICE CHAIR--Revenue/Taxation
Business, Transportation/Defense

Wayne R. Meyer (R), House Seat B . . . . . 2nd Term
E. 100 Lancaster, Rathdrum 83858
Home 687-0420 Wife - Karleen
Farmer
VICE-CHAIR--Business
Education, Environmental Affairs

3-KOOTENAI COUNTY

Gordon F. Crow (R), Senate . . . . . 2nd Term
10282 Hillview Dr., Hayden 83835-9236
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E-mail: SenCrow@aol.com
Media Consultant Wife - Sandy
VICE CHAIR--Commerce/Human Resources
Health/Welfare, Resources/Environment

Jim Clark (R), House Seat A . . . . . 1st Term
8665 N. Clarkview P., Hayden 83835
FAX 772-7718 Bus 772-5992
Management Consultant Wife - Vickie Parker-Clark
Judiciary/Rules/Administration
Local Government, Revenue/Taxation

Jeff Alltus (R), House Seat B . . . . . 2nd Term
2465 Upper Hayden Lake Rd, Hayden 83835
Home 762-3371 FAX 762-1141 Bus 762-1141
Insurance Agent Wife - Margaret
Business, State Affairs

4-BENEWAH, KOOTENAI & SHOSHONE COUNTIES

Jack Riggs (R), Senate . . . . . 1st Term
1701 Lincoln Way, Coeur d'Alene 83814
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Physician/Business Owner Wife - Rachel
Commerce/Human Resources
Education, Judiciary/Rules

Larry Watson (D), House Seat A . . . . . 1st Term
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Home 752-4075 Bus 752-1202
Chief Deputy Assessor/Shoshone County
Business, Local Government
Revenue/Taxation

Don Pischner (R), House Seat B . . . . . 2nd Term
P.O. Box 7, Coeur d'Alene 83816
Home 667-5770
Site Adm. Consultant
Appropriations (JFAC), Transportation/Defense

5-LATAH COUNTY

Gary J. Schroeder (R), Senate . . . . . 3rd Term
1289 Highland, Moscow 83843
Home 882-9092 FAX 882-5715 Bus 882-0601
Business Owner/Outdoor Writer
CHAIR--Education
Resources/Environment, Transportation

Tom Trail (R), House Seat A . . . . . 1st Term
2039 Mountain View Rd, Moscow 83843
Home 882-6077 FAX 882-0896 Bus 882-6077
Education Consultant/Farmer Wife - Jo Ann
Agricultural Affairs, Education
Human Resources

Maynard M. Miller (R), House Seat B . . . . . 3rd Term
514 E. First Street, Moscow 83843
Home 882-1237 FAX 8826207 Bus 885-6192
University Professor/
Administrator, U of Idaho Wife - Joan
VICE CHAIR--Human Resources
Education, Environmental Affairs

6-NEZ PERCE COUNTY

Bruce L. Sweeney (D), Senate . . . . . 8th Term
(Served 2 terms House, 1970-74)
P.O. Box 604, Lewiston 83501
Home 743-9148 FAX 746-8414 Bus 743-2534
Land Development/Construction Wife - Marilyn
ASSISTANT MINORITY LEADER
CO-CHAIR--Legislative Oversight Committee
Finance (JFAC), State Affairs

Frank C. Bruneel (R), House Seat A . . . . . 2nd Term
1319 7th St., Lewiston 83501
Home 743-8951 FAX 743-0323 Bus 746-9873
Tire Business Wife - Sharon
Judiciary/Rules/Administration, Revenue/Taxation
Transportation/Defense

Dan Mader (R), House Seat B . . . . . 3rd Term
Route 2, Box 57, Genesee 83832
Home 285-0135 FAX 285-0138 Business 285-1294
Farmer Wife - Cindi
Agricultural Affairs, Appropriations (JFAC)
Resources/Conservation

7-BENEWAH, CLEARWATER, IDAHO, LATAH, LEWIS & NEZ PERCE COUNTIES

Marguerite McLaughlin (D), Senate . . . . . 8th Term
(Served 2 terms House, 1979-82)
704 Floyd Ave., Orofino 83544
Home 476-4136 FAX 476-0273 Bus 476-4136
Business Manager Husband - G. Bruce
MINORITY LEADER
Commerce/Human Resources, Finance (JFAC)
Local Government/Taxation

Charles D. Cuddy (D), House Seat A . . . . . 4th Term
12640 Hartford Ave., Orofino 83544
Home 476-3729 Bus 476-4643
Surveying/Engineering Consultant Wife - Judy
Resources/Conservation, Revenue/Taxation
Transportation/Defense

June E. Judd (D), House Seat B . . . . . 4th Term
2105 West College Ave, St. Maries 83861-1218
Retired Educator Home/FAX 245-2818
Agricultural Affairs, Judiciary/Rules/Administration
State Affairs

8-ADAMS, BOISE, GEM, IDAHO & VALLEY COUNTIES

Judi Danielson (R), Senate . . . . . 2nd Term
(Served 3 terms House, 1989-94)
P.O. Box 528, Council 83612
Home 253-4850 Husband - John
Retired Nurse/Former County Commissioner
VICE CHAIR--Resources/Environment
Health/Welfare, Tranportation

Christian Zimmermann (R), House Seat A . . 1st Term
Box 121 Bogie Drive, Cascade 83611
Home 382-3100 FAX 382-3100 Bus 634-6900
Aviator, Small Businessman Wife - Melvia K.
Clergyman
Education, Human Resources
Local Government

Twila Hornbeck (R), House Seat B . . . . . 2nd Term
808 Lake, Grangeville 83530-1334
Home 983-1412 FAX 983-1412
Past Grangeville City Council Husband - John G.
Local Government, State Affairs
Judiciary/Rules/Administration

9-GEM, PAYETTE & WASHINGTON COUNTIES

W. Ric Branch (R), Senate . . . . . 2nd Term
3770 N. Crane Rd, Midvale 83645
Home 355-2426 FAX 355-2426
Cattle Rancher Wife - Cory
Agricultural Affairs, Local Government/Taxation
Resources/Environment

Lawerence Denney (R), House Seat A . . . . . 1st Term
2227 Denney Rd, Midvale 83645
Home 355-2374 FAX 355-3334
Farmer Wife - Donna
Health/Welfare, Resources/Conservation
State Affairs

Donna Jones (R), House Seat B . . . . . 6th Term
1911 1st Ave. S., Payette 83661
Home 642-9679 FAX 642-9476 Bus. 642-9433
Real Estate Broker Husband - Donald
CHAIR--Revenue/Taxation
Judiciary/Rules/Administration

10-CANYON COUNTY

Darrel Deide (R), Senate . . . . . 1st Term
603 Walnut Dr., Caldwell 83605
Home 459-9716 Bus 880-5787
Retired School Superintendent Wife - LaDonna
Commerce/Human Resources, Education
Judiciary/Rules

Ron Crane (R), House Seat A . . . . . 8th Term
1907 Alder, Caldwell 83605
Home 459-4990
Businessman Wife - Cheryl
CHAIR--State Affairs
Business

Dorothy L. Reynolds (R), House Seat B . . . 11th Term
(Served 3 terms House, 1974-80)
1920 Howard, Caldwell 83605-4853
Home 459-2553 FAX 459-3245
E-mail: DorothyBks@aol.com
Farm Owner/Substitute Teacher
CHAIR--Health/Welfare
Education

11-CANYON COUNTY

Atwell J. Parry (R), Senate . . . . . 9th 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 . . . . . 7th 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 . . . . . 6th Term
1225 Virginia Circle, Nampa 83687
Home 466-0970 Wife - Shirley
Real Estate Investments
CHAIR--Business
Local Government, Revenue/Taxation

12-CANYON COUNTY

J. L. "Jerry" Thorne (R), Senate . . . . . 7th Term
331 Winther Blvd., Nampa 83651
Home 467-2892 FAX 466-1133
Retired Wife - Lois
CHAIR--Local Government/Taxation
Finance (JFAC), Transportation

Dolores J. Crow (R), House Seat A . . . . . 8th Term
203 11th Ave. S. Extension, Nampa 83686
Home 467-1302 FAX 467-7387 Husband - Wayne
CHAIR--Environmental Affairs
Revenue/Taxation

William W. "Bill" Deal (R), House Seat B . . 4th Term
917 2nd St. So, P.O. Drawer B, Nampa 83653
Home 466-3184 FAX 466-2471 Bus 466-2465
Insurance Wife - Joan
VICE CHAIR--State Affairs
Business

13-ADA COUNTY

Sheila Sorensen (R), Senate . . . . . 3rd Term
(Served 3 terms House, 1987-92)
1229 E. Brightwater Ln, Boise 83706
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Health Care Professional Husband - Dean
VICE CHAIR--State Affairs
Judiciary/Rules

Debbie S. Field (R), House Seat A . . . . . 2nd Term
3236 Chickory Way, Boise 83706
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Political Consultant Husband - Mike
Judiciary/Rules/Administration
State Affairs

Julie Ellsworth (R), House Seat B . . . . . 1st Term
P.O. Box 668, Boise 83701
Home 336-6747
Homemaker - 2 Children Husband - Maurice
Environmental Affairs, Judiciary/Rules/Administration
State Affairs

14-ADA COUNTY

Harold R. "Hal" Bunderson (R), Senate . . . . 3rd 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 . . . . . 3rd Term
(Served 8 years Senate, 1967-74)
2354 Star Lane, Meridian 83642
Home 888-3776
Retired Agribusiness Wife - Helen
Resources/Conservation, Revenue/Taxation
Transportation/Defense

Shirley McKague (R), House Seat B . . . . . 1st Term
933 E. Pine, Meridian 83642
Home 888-2842 Bus 888-3379
Family Service Station Business Husband - Paul
State Affairs, Transportation/Defense

15-ADA COUNTY

John C. Andreason (R), Senate . . . . . 2nd Term
(Previously served in Senate, 1967-1970)
5120 Mountain View Drive, Boise 83704
Home 322-8558
Retired Wife - Darlene
VICE CHAIR--Education
Commerce/Human Resources, Resources/Environment

Paul Kjellander (R), House Seat A . . . . . 2nd Term
11745 Daniel, Boise 83713
Home 322-6954 Bus 385-3752
Boise State University Faculty Wife - Radelle
VICE CHAIR--Judiciary/Rules/Administration
State Affairs, Transportation/Defense

Max C. Black (R), House Seat B . . . . . 3rd Term
3731 Buckingham Drive, Boise 83704
Home 375-2635 FAX 375-8250 Bus 327-3400
Insurance Wife - Clydene
CHAIR--Ways/Means
Business, Education, Health/Welfare

16-ADA COUNTY

Cecil D. Ingram (R), Senate . . . . . 3rd Term
7025 El Caballo Dr., Boise 83704
Home 375-8876
Retired, Boise Cascade Corporation Wife - Ann
CHAIR--Agricultural Affairs
Finance (JFAC), Transportation

Margaret Henbest (D), House Seat A . . . . . 1st Term
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Pediatric Nurse Practitioner Husband - Michael
Health/Welfare, State Affairs

Horace B. "Hod" Pomeroy (R), House Seat B 5th Term
6822 Kingsdale Dr., Boise 83704
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Business Consultant
Appropriations (JFAC)
Transportation/Defense

17-ADA COUNTY

Grant R. Ipsen (R), Senate . . . . . 3rd Term
1010 Houston Road, Boise 83706
Home 342-4470 FAX 342-0261
CPA--Insurance/investments Wife - Edna (Eddie)
CHAIR--Health/Welfare
Local Government/Taxation

David Callister (R), House Seat A . . . . . 1st Term
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Businessman Wife - Becky
Business, Education
Local Government

Ruby R. Stone (R), House Seat B . . . . . 7th Term
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Property Management Home 375-7975
CHAIR--Local Government
State Affairs

18-ADA COUNTY

James E. Risch (R), Senate . . . . . 2nd Term
(Previously served in Senate, 1975-1988)
5400 S. Cole Rd., Boise 83709
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Attorney and Rancher Wife - Vicki
MAJORITY LEADER
Judiciary/Rules, State Affairs

William T. "Bill" Sali (R), House Seat A . . . . 4th Term
2295 W. Columbia, Meridian 83642
Home 888-3165 Wife - Terry
Attorney
VICE CHAIR--Health/Welfare
Judiciary/Rules/Administration

Fred D. Tilman (R), House Seat B . . . . . 4th Term
11457 Alejandro, Boise 83709
Home 322-1133 Wife - Geri
Business Consultant
CHAIR--Education
Business

19-ADA COUNTY

Betsy D. Dunklin (D), Senate . . . . . 1st Term
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Home/FAX 336-8201 (Call first)
Email: bdunklin@micron.net
Certified Social Worker Husband - Chip Cole
Education, Judiciary/Rules

J. Patrick Bieter (D), House Seat A . . . . . 1st Term
926 N. 8th St., Boise 83702
Home 343-6939 Wife - Eloise G.
Retired BSU Professor
Education, Health/Welfare
Human Resources

Kenneth L. Robison (D), House Seat B . . . . . 6th Term
(Served 1 Term Senate, 1979-80)
1119 N. 12th Street, Boise 83702
Journalist Home 345-3440
Appropriations (JFAC), Environmentl Affairs
Resources/Conservation

20-ELMORE & OWYHEE COUNTIES

Robbi King (R), Senate . . . . . 1st Term
(Previously served in House 1993-1996)
P.O. Box 280, Glenns Ferry 83623
Home 366-7715 Husband - Kevin
Commerce/Human Resources
Health/Welfare, Jucidiary/Rules

Frances Field (R), House Seat A . . . . . 7th Term
HC-85, Box 221, Grand View 83624
Home 834-2488
Retired Teacher and School Dist Mgr
Farm Owner
VICE CHAIR--Agricultural Affairs
Appropriations (JFAC), Resoures/Conservation

Jim Jones (R), House Seat B . . . . . 1st Term
1107 Maple Drive, Mountain Home 83647
Home 587-3028 Wife - Loretta
U.S. Army, Ret./Insurance Agent, Ret.
Health/Welfare, Human Resources
State Affairs

21-BLAINE, CAMAS, ELMORE, GOODING & LINCOLN COUNTIES

W. Clinton Stennett (D), Senate . . . . . 2nd Term
(Served 2 terms House, 1990-94)
P. O. Box 475, Ketchum 83340
Home 726-8106 FAX 788-4444 Bus. 788-4504
Businessman
TV and Radio Broadcasting Owner Wife - Michelle
MINORITY CAUCUS CHAIR
Agriculture, Resources/Environment
State Affairs

Wendy Jaquet (D), House Seat A . . . . . 2nd Term
P.O. Box 783, Ketchum 83340
Home 726-3100 FAX 726-0674
Consultant Husband - Jim
ASSISTANT MINORITY LEADER
Education, Judiciary/Rules/Administration
Health/Welfare, Ways/Means

Tim Ridinger (R), House Seat B . . . . . 2nd Term
607 West B, P.O. Box 110, Shoshone 83352
Home 886-2958
Hay Hauler Wife - Penny
Human Resources, Revenue/Taxation
Transportation/Defense

22-GOODING & TWIN FALLS COUNTIES

John Sandy (R), Senate . . . . . 2nd Term
3104 S. 1200 E., Hagerman 83332
Home 837-6680 Wife - Robin
Farmer/Private Businessman
ASSISTANT MAJORITY LEADER
Agricultural Affairs, Education, State Affairs

Celia R. Gould (R), House Seat A . . . . . 6th Term
4406 N. 1400 E., Buhl 83316
Home/Bus 543-6725
Rancher Husband - Bruce Newcomb
CHAIR--Judiciary/Rules/Administration
Revenue/Taxation

Douglas R. Jones (R), House Seat B . . . . . 7th Term
3515 N. 2300 E., Filer 83328
Home 326-4181 FAX 326-5280 Bus 733-8458
Farmer Wife - Mary Liz
CHAIR--Agricultural Affairs
Education, Resources/Conservation

23-TWIN FALLS COUNTY

Laird Noh (R), Senate . . . . . 9th 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 . . . . . 6th Term
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Home 734-9035 FAX 736-4711 Bus 736-2166
Director of Refugee Services E-mail: rlblack@micron.net
College of Southern Idaho Wife - Gael
Appropriations (JFAC), Health/Welfare

Mark D. Stubbs (R), House Seat B . . . . . 4th Term
P.O. Box 1846, Twin Falls 83303
Home 733-0049 FAX 733-7967 Bus 733-7180
Attorney Wife - Jan
VICE CHAIR--Environmental Affairs
Resources/Conservation, Revenue/Taxation

24-JEROME & MINIDOKA COUNTIES

Dean L. Cameron (R), Senate . . . . . 4th Term
1101 Ruby Dr., Rupert 83350
Home 436-4424 FAX 436-3776
Personal 436-5624 Bus 436-3584
Self-employed Insurance Agent Wife - Linda
CHAIR--Commerce/Human Resources
VICE CHAIR - Finance (JFAC)

John A. "Bert" Stevenson (R), House Seat A . 1st Term
1099 N. 400 W., Rupert 83350
Home 532-4524 FAX 532-4720 Bus 532-4105
Farmer Wife - Elaine
Agricultural Affairs, Resources/Conservation
State Affairs

Maxine T. Bell (R), House Seat B . . . . . 5th Term
194 S. 300 E., Jerome 83338
Home 324-4296 FAX 324-4296
Farmer/Homemaker Husband - H. Jack
VICE CHAIR--Appropriations (JFAC)
Agricultural Affairs, Resources/Conservation

25-CASSIA, MINIDOKA & TWIN FALLS COUNTIES

Denton Darrington (R), Senate . . . . . 8th Term
302 S. Hiway 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 . . . . . 4th Term
HC 36, Box 28, Albion 83311
Home 673-6261 Wife - Susan
Agribusiness
CHAIR--Transportation/Defense
Revenue/Taxation

Bruce Newcomb (R), House Seat B . . . . . 6th 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

Don M. Burtenshaw (R), Senate . . . . . 1st Term
1603 N. 1000 E., Terreton 83435
Home 663-4493 FAX 663-4499 Bus 663-4492
Farmer/Rancher/Business Wife - Beverly
Agricultural Affairs
Commerce/Human Resources, Education

JoAn E. Wood (R), House Seat A . . . . . 8th Term
3778 E. 500 N., Rigby 83442
Home 745-7846 Husband - Thomas D.
Partner-Ranch/Farm
VICE CHAIR--Transportation/Defense
Appropriations (JFAC), Resources/Conservation

Lenore Hardy Barrett (R), House Seat B . . . . 3rd Term
143 W. Pleasant, P.O. Box 347, Challis 83226
Phone 879-2797 Husband - Robert
Mining/Investments
VICE CHAIR--Local Government,
Judiciary/Rules/Administration, Revenue/Taxation

27-FREMONT & MADISON COUNTIES

Robert R. Lee (R), Senate . . . . . 2nd Term
1330 Barney Dairy Rd., Rexburg 83440
Home 356-9506 Wife - Gwen
Irrigation Engineer
VICE CHAIR--Agricultural Affairs
Resources/Environment, Transportation

Diana Richman (R), House Seat A . . . . . 2nd Term
3381 N. 5000 E., Sugar City 83448
Home 458-4149 FAX 458-4661
Farmer
Education, Health/Welfare
Human Resources

Golden C. Linford (R), House Seat B . . . . . 7th Term
2120 W. 4200 S., Rexburg 83440
Home 356-7220
Potato Grower/Processor Wife - Elizabeth
CHAIR--Resources/Conservation
Revenue/Taxation

28-BONNEVILLE, FREMONT & TETON COUNTIES

Stan Hawkins (R), Senate . . . . . 4th Term
(Served 3 terms House, 1984-90)
P.O. Box 367, Ucon 83454
Home 524-1586 Bus. 523-2880
Agribusiness Wife - Linn
Local Government/Taxation
Finance (JFAC), Resources/Environment

Max C. Mortensen (R), House Seat A . . . . . 3rd Term
120 N. 7th E., St. Anthony 83445
Home 624-3379 Wife - Bonnie
Self-employed
VICE CHAIR--Education
Agricultural Affairs, Human Resources

Cameron Wheeler (R), House Seat B . . . . . 1st Term
556 W. Birch Creek Rd., P.O. Box 335, Ririe 83443
Home 538-7355 FAX 538-6018 Bus 538-6018
Farmer/Real Estate Broker Wife - Beverly
Health/Welfare, Resources/Conservation
State Affairs

29-BONNEVILLE COUNTY

John D. Hansen (R), Senate . . . . . 6th 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 . . . . 3rd Term
3018 Westmoreland Circle, Idaho Falls 83402
Home 523-4463
Hydrologist Wife - Elaine
VICE CHAIR--Resources/Conservation
Appropriations (JFAC), Environmental Affairs

Reed Hansen (R), House Seat B . . . . . 6th Term
(Served 4 terms House, 1985-92)
4512 N. 26th W., Idaho Falls 83402
Home 522-5359
Farmer Wife - Marilyn
Local Government, Resources/Conservation
Revenue/Taxation

30-BONNEVILLE COUNTY

Melvin M. "Mel" Richardson (R), Senate . . . 3rd Term
(Served 2 terms House, 1989-92)
3725 Brookfield, Idaho Falls 83406
Home 522-0772 Bus 525-8655
Public Relations - Broadcasting Wife - Dixie
MAJORITY CAUCUS CHAIR
Finance (JFAC), State Affairs

Lee Gagner (R), House Seat A . . . . . 1st Term
2555 Fieldstream Ln., Idaho Falls 83404
Home 522-4580 FAX 529-3283 Bus 529-5600
Businessman Wife - Linda
Business, Education
Environmental Affairs

Thomas F. Loertscher (R), House Seat B . . . 6th 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 . . . . . 7th Term
955 W. 100 S., Blackfoot 83221
Senate Office 332-1300 Home 684-4090
Senate FAX 334-2320 Home FAX 684-3717
Farmer Wife - Sandra
PRESIDENT PRO TEM
State Affairs

Dennis M. Lake (R), House Seat A . . . . . 1st Term
830 Taber Rd., Blackfoot 83221
Home 684-4967 Wife - Luann
Agribusiness
Agricultural Affairs, Human Resources
Revenue/Taxation

Michael K. Simpson (R), House Seat B . . . . . 7th 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 . . . . . 2nd Term
370 Mt. View Ave., Soda Springs 83276
Home 547-2423 Bus 547-4300 X234
Environmental Engineer Wife - Tammy
VICE CHAIR--Local Government/Taxation
Agricultural Affairs, Resources/Environment

Robert C. Geddes (R), House Seat A . . . . . 11th Term
7235 N. 2600 W., Preston 83263
Home 852-1376
Farmer, Retired Wife - Carma
CHAIR--Appropriations, CO-CHAIR--JFAC
Agricultural Affairs

John H. Tippets (R), House Seat B . . . . . 5th Term
65 E. Center, Bennington, 83254
Home 847-2876 Wife - Nancy
Industrial Plant Trainer
MAJORITY CAUCUS CHAIR
Judiciary/Rules/Administration
State Affairs, Ways/Means

33-BANNOCK COUNTY

Lin Whitworth (D), Senate . . . . . 2nd Term
P.O. Box 183, Inkom 83245
Home 775-3773
Farmer/RR Conductor - Ret. Wife - Carol
Health/Welfare, Resources/Environment,
Transportation

Bert C. Marley (D), House Seat A . . . . . 1st Term
8806 S. Old Highway 91, McCammon 83250
Home 254-3586 Bus 254-3711
Teacher/Farmer Wife - Michelle
Human Resources, State Affairs
Transportation/Defense

Roger W. Chase (D), House Seat B . . . . . 1st Term
4985 Clearview, Pocatello 83204
Home 234-1427
Chemical Plant Operator Wife - Janis Rhoads
MINORITY CAUCUS CHAIR
Agricultural Affairs, Business
Revenue/Taxation, Ways/Means

34-BANNOCK COUNTY

Evan Frasure (R), Senate . . . . . 3rd Term
(Served 1 term House, 1990-92)
2950 Trevor, Pocatello 83201
Home/Bus. 238-8800 FAX 238-8802
E-mail: EvanSr9316@aol.com
Marketing Executive Wife - Analyn
CHAIR--Transportation
Finance (JFAC), Local Government/Taxation

Donna H. Boe (D), House Seat A . . . . . 1st Term
226 S. 16th Ave., Pocatello 83201
Home 233-5651 Husband - Roger
ESL Tutor
Education, Health/Welfare
Judiciary/Rules/Administration

Kent S. Kunz (R), House Seat B . . . . . 1st Term
128 Fairway Circle, Pocatello 83201
Home 237-0900 FAX 237-3637
UPRR Locomotive Engineer Wife - Kitty
Business, State Affairs
Transportation/Defense

35-BANNOCK, BINGHAM & POWER COUNTIES

Ralph "Moon" Wheeler (R), Senate . . . . . 2nd 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
VICE CHAIR--Health/Welfare
Local Government/Taxation

J. Steven Hadley (R), House Seat A . . . . . 1st Term
4877 Freedom Ave, Chubbuck 83202
Home 237-9094 Bus 233-5466
Small Business
Education, Environmental Affairs
Human Resources

Wayne Kendall (R), House Seat B . . . . . 1st Term
2652 W. 1200 S., Aberdeen 83210
Home 397-4884 FAX 397-5273 Bus 221-4444
Farmer/Rancher Wife - Shirley T.
Agricultural Affairs, Business, Education