

GENERAL LAWS
OF THE
STATE OF IDAHO



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

Convened January 11, 1999
Adjourned March 19, 1999

Volume 2

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

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SECRETARY OF STATE

PETE T. CENARRUSA
Secretary of State
Boise, Idaho

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CHAPTER 258
(H.B. No. 363)

AN ACT

RELATING TO ADMINISTRATIVE RULES; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 2000; CONTINUING RULES APPROVED 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, 2000 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, 1999, 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, 2000, at which time they shall expire as provided in Section 67-5292, Idaho Code.

SECTION 2. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been affirmatively approved or extended by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the First Regular Session of the Fifty-fifth Idaho Legislature shall continue in full force and effect in such approved or extended language until July 1, 2000, 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 First Regular Session of the Fifty-fifth Idaho Legislature shall be null, void and of no force and effect as provided in Section 67-5291, Idaho Code.

SECTION 4. Nothing contained in this act shall be deemed to prohibit an agency, as that term is defined in Section 67-5201, Idaho Code, from amending or repealing rules which have been continued in full force and effect until July 1, 2000, 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 con-

tained 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 24, 1999.

CHAPTER 259
(H.B. No. 365)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2000; DIRECTING THE STATE CONTROLLER TO TRANSFER CERTAIN FUNDS AS REQUESTED; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE OFFICE IN WASHINGTON, D.C.; 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 Commerce the following amounts from the listed funds to be expended according to designated expense classes for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
DEPARTMENT OF COMMERCE:					
FROM:					
General					
Fund	\$1,835,100	\$1,090,600	\$47,800		\$ 2,973,500
Tourism and Promotion					
Fund	470,500	2,540,400	24,500	\$ 2,760,000	5,795,400
Federal Grant					
Fund	389,100	134,000	14,000	15,102,900	15,640,000
Miscellaneous Revenue					
Fund	104,500	103,200			207,700
Seminars and Publications					
Fund		365,700			365,700
TOTAL	<u>\$2,799,200</u>	<u>\$4,233,900</u>	<u>\$86,300</u>	<u>\$17,862,900</u>	<u>\$24,982,300</u>

SECTION 2. The State Controller shall transfer up to \$119,500

from the INEEL Settlement Fund to the Department of Commerce's Miscellaneous Revenue Fund, as requested by the Department of Commerce.

SECTION 3. It is legislative intent that the Department of Commerce report back to the Joint Finance-Appropriations Committee on the gains made by the state of Idaho, its people, and its businesses, through the efforts of the department's office in Washington, D.C.

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Department of Commerce is authorized no more than fifty-four (54) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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, 1999.

CHAPTER 260
(H.B. No. 366)

AN ACT

RELATING TO COOPERATIVE SERVICE AGENCIES; AMENDING SECTION 63-802, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE LIMITATION ON BUDGET REQUESTS FOR COOPERATIVE SERVICE AGENCIES; 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; or
- (g) In the instance or case of cooperative service agencies, the restrictions imposed in sections 33-315 through 33-318, Idaho Code.

(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, 1999.

Approved March 24, 1999.

CHAPTER 261
(H.B. No. 367)

AN ACT

RELATING TO EXCEPTIONS TO LIABILITY; REPEALING SECTION 6-904D, IDAHO CODE.

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

SECTION 1. That Section 6-904D, Idaho Code, be, and the same is hereby repealed.

Approved March 24, 1999.

CHAPTER 262
(H.B. No. 368)

AN ACT

APPROPRIATING MONEYS FROM THE PERMANENT BUILDING FUND TO THE DIVISION OF PUBLIC WORKS FOR THE VARIOUS PURPOSES SPECIFIED; EXPRESSING LEGISLATIVE INTENT CONCERNING THE USE OF MONEYS APPROPRIATED IN THIS ACT; EXEMPTING THE APPROPRIATIONS FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; AUTHORIZING THE USE OF TAX ANTICIPATION NOTES; PROVIDING FOR A TRANSFER OF \$1,000,000 FROM THE GENERAL FUND TO THE PERMANENT BUILDING FUND; EXPRESSING LEGISLATIVE INTENT REGARDING AUTHORIZATION TO RELOCATE A DEPARTMENT OF JUVENILE CORRECTIONS MEDIUM-HIGH SECURITY PROJECT FROM ST. ANTHONY TO NAMPA; AND DECLARING AN EMERGENCY FOR SECTIONS 1, 2, 3, 4 AND 6 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 Fund for the purpose of undertaking the construction, renovation, repair and acquisitions herein authorized, without delay, and to determine the priority of construction pursuant to which the work hereunder will be undertaken.

- | | |
|---|--------------|
| A. MAINTENANCE PROJECTS IN THE FOLLOWING AREAS: | \$13,135,900 |
| (1) Alterations and Repairs | |
| (2) Asbestos Abatement | |
| (3) Underground Storage Tank Program | |
| (4) Statewide ADA Compliance | |

	(5) Building Demolition (TB Hospital - Gooding)	
	(6) Capitol Mall Maintenance	
B.	DEPARTMENT OF HEALTH & WELFARE:	
	(1) State Hospital South - Remodel A Building (Planning)	\$ 300,000
C.	DEPARTMENT OF ADMINISTRATION:	
	(1) Statewide Microwave System	\$ 2,896,000
	(2) Capitol Mall Master Plan/Ada County Courthouse Plan	<u>430,000</u>
	TOTAL	\$ 3,326,000
D.	STATE BOARD OF EDUCATION:	
	(1) Eastern Idaho Technical College - Library Expansion (Planning)	\$ 100,000
	(2) Idaho State University - Physical Science Phase II	4,670,000
	(3) Lewis-Clark State College - Campus Activity Center (Planning)	1,000,000
	(4) University of Idaho - Agricultural Sciences Building-Life Safety	972,000
	(5) College of Southern Idaho - Fine Arts Addition (Planning)	300,000
	(6) Boise State University - Information Technology Infrastructure (Planning)	500,000
	(7) North Idaho College - Warehouse	<u>50,000</u>
	TOTAL	\$ 7,592,000
	GRAND TOTAL	\$24,353,900

SECTION 2. 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 3. All appropriations made herein shall be exempt from the provisions of Chapter 36, Title 67, and Section 67-3516, Idaho Code, but shall be available for expenditure only after allotment in accordance with the other provisions of Chapter 35, Title 67, Idaho Code, and all appropriations made hereunder shall be subject to the provisions of Section 67-5711, Idaho Code, except as otherwise provided herein.

SECTION 4. The State Treasurer is hereby authorized and directed to anticipate the revenues in the Permanent Building Fund by the issuance of tax anticipation notes in accordance with authority conferred

in Sections 63-3201 through 63-3204, Idaho Code, and in accordance with the procedures and subject to the limitations provided in those sections, in the same manner as though the revenues in the General Fund were being anticipated.

SECTION 5. There is hereby appropriated and the State Controller is hereby directed to transfer the amount of \$1,000,000 from the General Fund to the Permanent Building Fund.

SECTION 6. It is legislative intent that the relocation of the Department of Juvenile Corrections medium-high security facility project previously funded and approved for construction at St. Anthony be reauthorized as matching funds for construction of the project at the Juvenile Management Center in Nampa pursuant to the recommendation made by the needs assessment.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3, 4 and 6 of this act shall be in full force and effect on and after its passage and approval.

Approved March 24, 1999.

CHAPTER 263
(H.B. No. 370)

AN ACT

RELATING TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING CHAPTER 1, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-104A, IDAHO CODE, TO PROVIDE A STATEMENT OF INTENT AND TO PROVIDE AUTHORITY TO THE DEPARTMENT OF HEALTH AND WELFARE TO MAKE RULES REGULATING LARGE SWINE AND POULTRY FEEDING OPERATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 1, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-104A, Idaho Code, and to read as follows:

39-104A. AUTHORITY TO MAKE RULES REGULATING LARGE SWINE AND POULTRY FEEDING OPERATIONS. (1) The state of Idaho is experiencing the development of large swine and poultry feeding operations which are inadequately controlled through existing state regulatory mechanisms. If not properly regulated, these facilities pose a threat to the state's surface and ground water resources. Due to existing rulemaking authority, the department of health and welfare, division of environmental quality, is in the best position of all state agencies to modify its present rules and to make new rules to develop an adequate regulatory framework for large swine and poultry feeding operations.

(2) The department of health and welfare is authorized to modify

its existing administrative rules and to make new rules regulating large swine and poultry feeding operations, as they shall be defined by the department. The department is authorized to work with the Idaho department of agriculture in the development of such rules.

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, 1999.

CHAPTER 264
(H.B. No. 373)

AN ACT

APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2000;
AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Tax Commission in the Department of Revenue and Taxation the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. GENERAL SERVICES:				
FROM:				
General Fund	\$ 3,321,600	\$4,361,700	\$383,100	\$ 8,066,400
Administration and Accounting Fund		37,800		37,800
Administration Services for Transportation Fund	328,900	360,100	37,400	726,400
Abandoned Property Trust-Unclaimed Property Fund		23,200		23,200
Seminars and Publications Fund		<u>30,800</u>		<u>30,800</u>
TOTAL	<u>\$ 3,650,500</u>	<u>\$4,813,600</u>	<u>\$420,500</u>	<u>\$ 8,884,600</u>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
II. AUDIT AND COLLECTIONS:				
FROM:				
General Fund	\$ 8,650,600	\$1,463,400	\$ 9,300	\$10,123,300
Multistate Tax Compact Fund	500,300	360,100		860,400
Administration and Accounting Fund		9,500		9,500
Administration Services for Transportation Fund	1,019,900	237,800	3,000	1,260,700
Abandoned Property Trust-Unclaimed Property Fund	<u>318,800</u>	<u>98,500</u>	<u>900</u>	<u>418,200</u>
TOTAL	\$10,489,600	\$2,169,300	\$ 13,200	\$12,672,100
III. REVENUE OPERATIONS:				
FROM:				
General Fund	\$ 2,456,000	\$1,239,700	\$215,000	\$ 3,910,700
Administration and Accounting Fund		26,300		26,300
Administration Services for Transportation Fund	313,900	169,000	10,100	493,000
Seminars and Publications Fund		<u>18,000</u>		<u>18,000</u>
TOTAL	\$ 2,769,900	\$1,453,000	\$225,100	\$ 4,448,000
IV. COUNTY SUPPORT:				
FROM:				
General Fund	\$ 2,047,700	\$ 511,400	\$ 4,500	\$ 2,563,600
Seminars and Publications Fund		<u>94,800</u>		<u>94,800</u>
TOTAL	\$ 2,047,700	\$ 606,200	\$ 4,500	\$ 2,658,400
GRAND TOTAL	\$18,957,700	\$9,042,100	\$663,300	\$28,663,100

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Tax Commission is authorized no more than four hundred fourteen (414) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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, 1999.

CHAPTER 265
(H.B. No. 374)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2000; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; TRANSFERRING MONEYS TO THE GENERAL FUND; APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 1999; AND DECLARING AN EMERGENCY FOR SECTION 4 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the Public Utilities Commission the following amount, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
General Fund	\$ 282,100			\$ 282,100
Public Utilities Commission Fund	<u>667,900</u>	<u>\$ 222,000</u>	<u>\$24,200</u>	<u>914,100</u>
TOTAL	\$ 950,000	\$ 222,000	\$24,200	\$1,196,200
II. UTILITIES REGULATION:				
FROM:				
Public Utilities Commission Fund	\$1,663,600	\$ 870,300	\$21,800	\$2,555,700
III. REGULATED CARRIERS:				
FROM:				
Public Utilities Commission Fund	\$ 419,400	\$ 231,700	\$ 9,900	\$ 661,000
GRAND TOTAL	\$3,033,000	\$1,324,000	\$55,900	\$4,412,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Public Utilities Commission is authorized no more than fifty-six (56) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. Notwithstanding any other provisions of law, there is hereby appropriated from the Public Utilities Commission Fund and transferred to the General Fund an amount equal to the General Fund expenditures of the Public Utilities Commission for the period July 1, 1999, through June 30, 2000.

SECTION 4. In addition to the appropriation made in Section 1, Chapter 86, Laws of 1998, there is hereby appropriated to the Public

Utilities Commission the following amount, to be expended for the Administration Program according to the designated expense class from the listed fund for the period July 1, 1998, through June 30, 1999:

FOR:	
Personnel Costs	\$8,800
FROM:	
General Fund	\$8,800

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 4 of this act shall be in full force and effect on and after its passage and approval.

Approved March 24, 1999.

CHAPTER 266
(H.B. No. 376)

AN ACT

RELATING TO INCOME TAXES ON LOTTERY WINNINGS; RESTATING AND EXPRESSING LEGISLATIVE INTENT UNDER EXISTING LAW IN RELATION TO INCOME TAXES ON LOTTERY WINNINGS; AND APPROPRIATING MONEYS FOR PUBLIC SCHOOL SUPPORT TO BE USED FOR THE IDAHO SAFE AND DRUG-FREE SCHOOLS PROGRAM.

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

SECTION 1. It is legislative intent that whereas Chapter 382, Laws of 1997, provides that income taxes be imposed on lottery prizes received from lottery tickets over \$600 as provided for in Section 67-7439, Idaho Code, and that the intent of Chapter 382, Laws of 1997, was to provide a source of funds for county juvenile probation services and for substance abuse programs in the public schools, and that because such taxes accrue to the state General Fund and must be appropriated to meet the intent of the act, the following appropriation is authorized.

SECTION 2. There is hereby appropriated and the State Controller is directed to transfer \$200,000 from the General Fund for the Public School Educational Support Program for deposit in the Public School Income Fund to be used for the Idaho Safe and Drug-Free Schools Program for the period July 1, 1999, through June 30, 2000.

Approved March 24, 1999.

CHAPTER 267
(H.B. No. 377, As Amended)

AN ACT

REDUCING THE APPROPRIATION TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2000; REDUCING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO

TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2000; INCREASING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 2000; INCREASING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND AUTHORIZING THE TRANSFER OF FUNDS FROM THE IDAHO TRANSPORTATION DEPARTMENT TO THE PUBLIC UTILITIES COMMISSION.

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

SECTION 1. The appropriation made in House Bill 374 of the First Regular Session of the Fifty-fifth Idaho Legislature, is hereby reduced by the following amounts in the designated program according to the designated expense classes from the listed fund for the period July 1, 1999, through June 30, 2000:

REGULATED CARRIERS:

FOR:

Personnel Costs	\$251,100
Operating Expenditures	31,700
Capital Outlay	<u>6,600</u>
TOTAL	\$289,400

FROM:

Public Utilities Commission Fund	\$289,400
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SECTION 2. The number of full-time equivalent positions authorized in House Bill 374 of the First Regular Session of the Fifty-fifth Idaho Legislature is hereby reduced by six (6) positions for the period July 1, 1999, through June 30, 2000, for the program specified in Section 1 of this act.

SECTION 3. In addition to any other appropriation made by the First Regular Session of the Fifty-fifth Idaho Legislature, there is hereby appropriated to the Idaho Transportation Department the following amounts to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 1999, through June 30, 2000:

MOTOR VEHICLES:

FOR:

Personnel Costs	\$ 68,100
Operating Expenditures	26,500
Capital Outlay	<u>6,600</u>
TOTAL	\$101,200

FROM:

State Highway Fund (Dedicated)	\$101,200
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SECTION 4. In addition to any other positions authorized by the First Regular Session of the Fifty-fifth Idaho Legislature, the Idaho Transportation Department is authorized an additional four (4) full-time equivalent positions for the period July 1, 1999, through June 30, 2000, for the program specified in Section 3 of this act.

SECTION 5. In addition to any other appropriation made by the First Regular Session of the Fifty-fifth Idaho Legislature, there is

hereby appropriated to the Idaho Department of Law Enforcement the following amounts to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 1999, through June 30, 2000:

IDAHO STATE POLICE:

FOR:

Personnel Costs	\$192,800
Operating Expenditures	32,600
Capital Outlay	<u>30,000</u>
TOTAL	\$255,400

FROM:

Law Enforcement Fund	\$255,400
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SECTION 6. In addition to any other positions authorized by the First Regular Session of the Fifty-fifth Idaho Legislature, the Idaho Department of Law Enforcement is authorized an additional four (4) full-time equivalent positions for the period July 1, 1999, through June 30, 2000, for the program specified in Section 5 of this act.

SECTION 7. No sooner than January 3, 2000, at the request of the President of the Public Utilities Commission, the State Controller shall make cash transfers totaling \$300,000 from the State Highway Fund, from revenues generated by Section 49-202(2)(o), Idaho Code, as amended by House Bill 335 aaS, aaS, enacted by the First Regular Session of the Fifty-fifth Idaho Legislature, to the Public Utilities Commission Fund for the period July 1, 1999, through June 30, 2000.

Approved March 24, 1999.

CHAPTER 268
(H.B. No. 378)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, SENATE BILL 1266, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE.

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

SECTION 1. In addition to the appropriation made in Section 1, Senate Bill 1266, enacted by the First Regular Session of the Fifty-fifth Idaho Legislature, there is hereby appropriated to the Supreme Court, \$594,900 from the General Fund to be expended for the period July 1, 1999, through June 30, 2000.

Approved March 24, 1999.

CHAPTER 269
(H.B. No. 379)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2000; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CERTAIN TRANSFERS BEING CONTINUOUSLY APPROPRIATED; LIMITING AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; REQUESTING AN UPDATE ON THE PUBLIC TRANSPORTATION VEHICLE INVESTMENT PROGRAM; AUTHORIZING THE TRANSFER OF HIGHWAY FUNDS TO THE AERONAUTICS FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; EXPRESSING LEGISLATIVE INTENT REGARDING HIGHWAY SAFETY; REQUESTING A REPORT ON THE USE OF STUDDERED TIRES; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR DISASTER REPAIRS.

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

SECTION 1. There is hereby appropriated to the Idaho Transportation Department the following amount, to be expended for the designated programs according to the designated expense classes from the listed fund sources for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT AND SUPPORT:					
FROM:					
State Highway Fund (Dedicated)	\$10,185,600	\$ 6,353,700	\$ 724,800		\$ 17,264,100
State Highway Fund (Federal)	207,300	1,233,100			1,440,400
State Highway Fund (Billing)	<u>62,600</u>	<u>63,900</u>			<u>126,500</u>
TOTAL	\$10,455,500	\$ 7,650,700	\$ 724,800		\$ 18,831,000
II. PLANNING:					
FROM:					
State Highway Fund (Dedicated)	\$ 414,200	\$ 386,700	\$ 22,600		\$ 823,500
State Highway Fund (Federal)	1,578,000	1,811,000	90,200	\$1,146,000	4,625,200
State Highway Fund (Billing)		<u>40,900</u>			<u>40,900</u>
TOTAL	\$ 1,992,200	\$ 2,238,600	\$ 112,800	\$1,146,000	\$ 5,489,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. MOTOR VEHICLES:					
FROM:					
State Highway Fund (Dedicated)	\$ 9,921,000	\$ 4,689,100	\$ 844,700		\$ 15,454,800
State Highway Fund (Billing)		44,400			44,400
TOTAL	<u>\$ 9,921,000</u>	<u>\$ 4,733,500</u>	<u>\$ 844,700</u>		<u>\$ 15,499,200</u>
IV. HIGHWAY OPERATIONS:					
FROM:					
State Highway Fund (Restricted)	\$ 1,994,800	\$ 372,800			\$ 2,367,600
State Highway Fund (Dedicated)	52,134,800	30,479,000	\$ 15,353,000		97,966,800
State Highway Fund (Federal)	10,952,600	4,865,700		\$2,200,000	18,018,300
Idaho Traffic Safety Fund (Federal)				1,600,000	1,600,000
State Highway Fund (Billing)		449,700			449,700
State Highway Fund (Local)	204,500	92,700			297,200
TOTAL	<u>\$65,286,700</u>	<u>\$36,259,900</u>	<u>\$ 15,353,000</u>	<u>\$3,800,000</u>	<u>\$120,699,600</u>
V. CAPITAL FACILITIES:					
FROM:					
State Highway Fund (Dedicated)			\$ 2,800,000		\$ 2,800,000
VI. CONTRACT CONSTRUCTION & RIGHT-OF-WAY ACQUISITION:					
FROM:					
State Highway Fund (Restricted)			\$ 23,563,800		\$ 23,563,800
State Highway Fund (Dedicated)			28,980,600		28,980,600
State Highway Fund (Federal)			157,185,800		157,185,800
State Highway Fund (Local)			2,774,300		2,774,300
TOTAL			<u>212,504,500</u>		<u>\$212,504,500</u>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. AERONAUTICS:					
FROM:					
State Aeronautics Fund (Dedicated)	\$ 690,000	\$ 405,200	\$ 79,100	\$ 300,000	\$ 1,474,300
State Aeronautics Fund (Federal)		250,000			250,000
State Aeronautics Fund (Billing)	<u>25,800</u>	<u>125,000</u>			<u>150,800</u>
TOTAL	\$ 715,800	\$ 780,200	\$ 79,100	\$ 300,000	\$ 1,875,100
VIII. PUBLIC TRANSPORTATION:					
FROM:					
State Highway Fund (Dedicated)	\$ 95,100	\$ 91,300		\$ 136,000	\$ 322,400
State Highway Fund (Federal)	<u>342,100</u>	<u>7,300</u>		<u>3,386,900</u>	<u>3,736,300</u>
TOTAL	\$ 437,200	\$ 98,600		\$ 3,522,900	\$ 4,058,700
GRAND TOTAL	\$88,808,400	\$51,761,500	\$232,418,900	\$8,768,900	\$381,757,700

SECTION 2. It is legislative intent that all moneys transferred to the Local Bridge Inspection Fund and to the Railroad Grade Crossing Protection Fund, as provided in Section 63-2412, Idaho Code, are hereby continuously appropriated to the Idaho Transportation Department for the stated purposes of those funds.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Idaho Transportation Department is authorized no more than one thousand eight hundred twenty-five (1,825) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. The Idaho Transportation Department shall update the Joint Finance-Appropriations Committee regarding the status of the Public Transportation Vehicle Investment Program during the Second Regular Session of the Fifty-fifth Idaho Legislature.

SECTION 5. The Idaho Transportation Department is authorized to transfer up to \$71,300 from the State Highway Fund to the State Aeronautics Fund during the fiscal year. It is legislative intent that the

moneys transferred be used to offset operating costs of the aircraft pool program or be used to establish a reserve for capital replacement costs of the aircraft pool program. The department shall prepare a progress report regarding the status of the aircraft pool program for presentation to the Joint Finance-Appropriations Committee during the Second Regular Session of the Fifty-fifth Idaho Legislature.

SECTION 6. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of the State Highway Fund appropriated for the Contract Construction and Right-of-Way Acquisition program for fiscal year 1999, to be used for Contract Construction and Right-of-Way Acquisition only for the period July 1, 1999, through June 30, 2000.

SECTION 7. It is the intent of the Legislature of the State of Idaho to encourage the Idaho Transportation Board to put more emphasis on public information to improve safety on state highways.

SECTION 8. It is the intent of the Legislature that the Idaho Transportation Department prepare a report for presentation to the Second Regular Session of the Fifty-fifth Idaho Legislature regarding the impact of studded tires on streets and highways, especially on concrete pavements and structures. This report should compare the safety benefits of studded tire use with the costs of pavement damage to Idaho roads. The report should disclose alternative tire compositions and their comparative impacts. The report should also identify potential regional solutions.

SECTION 9. All unspent and unencumbered moneys previously appropriated from funds deposited to the restricted disaster State Highway Fund from the Restricted Highway Fund, Section 40-701A(2)(a), Idaho Code, and the Idaho Petroleum Clean Water Trust Fund Suspense Account, Section 41-4909A, Idaho Code, for repair and restoration of local and state roads and bridges damaged by the 1996, 1997 and 1998 natural disasters are hereby reappropriated to the Idaho Transportation Department for the period July 1, 1999, through June 30, 2000.

Approved March 24, 1999.

CHAPTER 270
(H.B. No. 380)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2000; 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; EXPRESSING LEGISLATIVE INTENT REGARDING

THE ENVIRONMENTAL REMEDIATION FUND AND REQUIRING AN ANNUAL REPORT; TRANSFERRING MONEYS FROM THE HAZARDOUS WASTE EMERGENCY FUND TO THE GENERAL FUND; EXEMPTING THE DIVISION OF ENVIRONMENTAL QUALITY FROM THE TEN PERCENT TRANSFER BETWEEN PROGRAMS LIMITATION; TRANSFERRING MONEYS FROM THE WATER POLLUTION CONTROL FUND TO THE RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT FUND; AND APPROPRIATING ADDITIONAL MONEYS TO THE SOIL CONSERVATION COMMISSION IN THE DEPARTMENT OF AGRICULTURE.

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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INEEL OVERSIGHT:					
FROM:					
General					
Fund	\$ 174,800	\$ 17,900			\$ 192,700
Cooperative					
Welfare/DEQ					
Fund					
(Federal)	<u>1,037,800</u>	<u>369,400</u>	<u>\$ 21,000</u>	<u>\$ 577,100</u>	<u>2,005,300</u>
TOTAL	\$ 1,212,600	\$ 387,300	\$ 21,000	\$ 577,100	\$ 2,198,000
II. PLANNING AND SUPPORT SERVICES:					
FROM:					
General					
Fund	\$ 227,300	\$ 215,000			\$ 442,300
Air Quality					
Permitting					
Fund	260,800	270,000	\$ 18,000		548,800
Water Pollution					
Control					
Fund	616,500	818,000	43,500		1,478,000
Environmental					
Remediation					
Fund	21,800	23,000			44,800
Cooperative					
Welfare/DEQ					
Fund					
(Federal)	1,436,400	1,267,900	8,000		2,712,300
Cooperative					
Welfare/DEQ					
Fund					
(Other)	<u>283,600</u>	<u>146,300</u>	<u>2,000</u>		<u>431,900</u>
TOTAL	\$ 2,846,400	\$ 2,740,200	\$ 71,500		\$ 5,658,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. AIR AND HAZARDOUS WASTE:					
FROM:					
General					
Fund	\$ 1,468,000	\$ 158,700	\$ 16,000		\$ 1,642,700
Air Quality					
Permitting					
Fund	988,800	209,000	16,000	\$ 193,900	1,407,700
Cooperative					
Welfare/DEQ					
Fund					
(Federal)	1,582,300	363,600	46,000	153,900	2,145,800
Cooperative					
Welfare/DEQ					
Fund					
(Other)	<u>9,800</u>	<u>11,800</u>			<u>21,600</u>
TOTAL	\$ 4,048,900	\$ 743,100	\$ 78,000	\$ 347,800	\$ 5,217,800
IV. WATER QUALITY AND REMEDIATION:					
FROM:					
General					
Fund	\$ 979,900	\$ 227,100	\$ 10,000		\$ 1,217,000
Agriculture					
Smoke Management					
Fund		29,700			29,700
Air Quality					
Permitting					
Fund	273,600	90,700	36,600		400,900
Water					
Pollution					
Control					
Fund	4,725,700	2,054,000	102,000	\$ 3,001,800	9,883,500
Environmental					
Remediation					
Fund	128,600	474,500		10,000	613,100
Bunker Hill Trust					
Fund				300,000	300,000
Cooperative					
Welfare/DEQ					
Fund					
(Federal)	4,000,300	1,396,900	47,100	1,477,700	6,922,000
Cooperative					
Welfare/DEQ					
Fund					
(Other)	<u>1,262,100</u>	<u>386,400</u>	<u>4,000</u>	<u>234,700</u>	<u>1,887,200</u>
TOTAL	\$11,370,200	\$4,659,300	\$199,700	\$5,024,200	\$21,253,400
GRAND					
TOTAL	\$19,478,100	\$8,529,900	\$370,200	\$5,949,100	\$34,327,300

SECTION 2. Within the appropriation provided in Section 1 of this act, the State Controller shall make transfers from the General Fund, the Water Pollution Control 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 1999, to be used for nonrecurring expenditures only for the period July 1, 1999, through June 30, 2000. The Department of Health and Welfare shall adjust the amount of reappropriation so as not to exceed 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 fifty-seven and fifty-five hundredths (357.55) full-time equivalent positions in the Division of Environmental Quality at any point during the period July 1, 1999, through June 30, 2000, 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, 1999, through June 30, 2000.

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.

SECTION 8. Notwithstanding the provisions of Section 39-4417, Idaho Code, the State Controller is hereby directed to transfer \$350,000 from the Hazardous Waste Emergency Fund to the General Fund for the period July 1, 1999, through June 30, 2000.

SECTION 9. To provide maximum flexibility, the Division of Environmental Quality is hereby exempted from the provisions of Section 67-3511(2), Idaho Code, for all moneys appropriated to it for the period July 1, 1999, through June 30, 2000. Transfers of moneys between the programs in this act are still subject to the approval of the Division of Financial Management and the Board of Examiners.

SECTION 10. The State Controller is hereby directed to transfer \$1,500,000 from the Water Pollution Control Fund to the Resource Conservation and Rangeland Development Fund for the period July 1, 1999, through June 30, 2000.

SECTION 11. In addition to the appropriation made in Section 1, Senate Bill 1268, enacted by the First Regular Session of the Fifty-fifth Idaho Legislature, there is hereby appropriated to the Soil Conservation Commission in the Department of Agriculture, the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 1999, through June 30, 2000:

FOR:	
Trustee and Benefit Payments	\$500,000
FROM:	
Resource Conservation and Rangeland Development Fund	\$500,000

Approved March 24, 1999.

CHAPTER 271
(H.B. No. 47)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1322, IDAHO CODE, TO CLARIFY THE EFFECT OF CONTRIBUTIONS REQUIRED UNDER SECTIONS 33-107A AND 33-107B, IDAHO CODE, ON THE UNFUNDED ACTUARIAL LIABILITY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 59-1322, Idaho Code, be, and the same is hereby amended to read as follows:

59-1322. EMPLOYER CONTRIBUTIONS -- AMOUNTS -- RATES -- AMORTIZATION. (1) Each employer shall contribute to the cost of the system. The amount of the employer contributions shall consist of the sum of a percentage of the salaries of members to be known as the "normal cost" and a percentage of such salaries to be known as the "amortization payment." The rates of such contributions shall be determined by the board on the basis of assets and liabilities as shown by actuarial valuation, and such rates shall become effective no later than January 1 of the second year following the year of the most recent actuarial valuation, and shall remain effective until next determined by the board.

(2) The normal cost rate shall be computed to be sufficient, when applied to the actuarial present value of the future salary of the average new member entering the system, to provide for the payment of all prospective benefits in respect to such member which are not provided by the member's own contribution.

(3) The amortization rate shall not be less than the minimum amortization rate computed pursuant to subsection (5) of this section,

unless a one (1) year grace period has been made effective by the board. During a grace period, the amortization rate shall be no less than the rate in effect during the immediately preceding year. A grace period may not be made effective if more than one (1) other grace period has been effective in the immediately preceding four (4) year period.

(4) Each of the following terms used in this subsection and in subsection (5) of this section shall have the following meanings:

(a) "Valuation" means the most recent actuarial valuation.

(b) "Valuation date" means the date of such valuation.

(c) "Effective date" means the date the rates of contributions based on the valuation become effective pursuant to subsection (1) of this section.

(d) "End date" means the date thirty (30) years after the valuation date until July 1, 1993. On and after July 1, 1993, "end date" means twenty-five (25) years after the valuation date.

(e) "Unfunded actuarial liability" means the excess of the actuarial present value of (i) over the sum of the actuarial present values of (ii), (iii), and (iv) and (v) as follows, all determined by the valuation as of the valuation date:

(i) all future benefits payable to all members and contingent annuitants;

(ii) the assets then held by the funding agent for the payment of benefits under this chapter;

(iii) the future normal costs payable in respect of all then active members;

(iv) the future contributions payable under sections 59-1331 through 59-1334, Idaho Code, by all current active members;

(v) the future contributions payable to the retirement system under sections 33-107A and 33-107B, Idaho Code.

(f) "Projected salaries" means ~~the sum of the annual salaries of all members in the system, and of all participants in the optional retirement program as defined in section 33-107A, Idaho Code.~~

(g) "Scheduled amortization amount" means the actuarial present value of future contributions payable as amortization payment from the valuation date until the effective date.

(5) The minimum amortization payment rate shall be that percentage, calculated as of the valuation date, of the then actuarial present value of the projected salaries from the effective date to the end date which is equivalent to the excess of the unfunded actuarial liability over the scheduled amortization amount.

Approved March 24, 1999.

CHAPTER 272
(H.B. No. 63)

AN ACT

RELATING TO THE PUBLIC WORKS CONSTRUCTION MANAGEMENT LICENSING ACT;
AMENDING SECTION 54-4510, IDAHO CODE, TO PROVIDE THAT FEES COLLECTED BY THE PUBLIC WORKS CONTRACTORS LICENSE BOARD SHALL BE PAID

TO THE BOARD AND TO THE CREDIT OF THE BOARD FUND, AND THAT EXPENSES SHALL BE PAID FROM THE PUBLIC WORKS CONTRACTORS LICENSE BOARD FUND.

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

SECTION 1. That Section 54-4510, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ public works contractors license board and deposited in the state treasury, to the credit of the ~~occupational licenses~~ public works contractors license board 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~~ public works contractors license board 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.

Approved March 24, 1999.

CHAPTER 273
(H.B. No. 65)

AN ACT

RELATING TO PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS; AMENDING SECTION 54-1208, IDAHO CODE, TO AUTHORIZE THE BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS TO ADOPT CONTINUING PROFESSIONAL DEVELOPMENT REQUIREMENTS; AND AMENDING SECTION 54-1223, IDAHO CODE, TO STRIKE AN OBSOLETE PROVISION.

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

SECTION 1. That Section 54-1208, Idaho Code, be, and the same is hereby amended to read as follows:

54-1208. BOARD -- POWERS. (1) The board shall have the power to adopt and amend all bylaws, rules of professional responsibility, rules of continuing professional development for professional land surveyors not to exceed sixteen (16) hours annually, and rules of procedure, not inconsistent with the constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the administration of the act and the regulation of proceedings before the board. These actions by the board shall be binding upon persons registered under this act and shall be applicable to corporations holding a certificate of authorization as provided in section 54-1235, Idaho Code. It shall adopt and have an official seal which shall be affixed to each certificate issued. It shall have power to provide an office, office equipment and facilities and such books and records as may be reasonably necessary for the proper performance of its duties.

(2) In carrying into effect the provisions of this act, the board may subpoena witnesses and compel their attendance, and also may require the submission of books, papers, documents, or other pertinent data in any disciplinary matters or in any case wherever a violation of this act is alleged. Upon failure or refusal to comply with any such order of the board, or upon failure to honor its subpoena as herein provided, the board may apply to any court of any jurisdiction to enforce compliance with same.

(3) The board is hereby authorized in the name of the state to apply for relief by injunction in the established manner provided in cases of civil procedure, without bond, to enforce the provisions of this act or to restrain any violation thereof. Venue for all such actions shall be in the district court of the fourth judicial district, Ada county, Idaho.

(4) The board may subject an applicant for registration to such examination as it deems necessary to determine qualifications.

(5) Any action, claim or demand to recover money damages from the board or its employees which any person is legally entitled to recover as compensation for the negligent or otherwise wrongful act or omission of the board or its employees, when acting within the course and scope of their employment, shall be governed by the Idaho tort claims act, chapter 9, title 6, Idaho Code. For purposes of this section, the term "employees" shall include, in addition to those persons listed in section 6-902(4), Idaho Code, special assignment members and other independent contractors while acting within the course and scope of their board related work.

(6) The board may recommend arbitration of disputes between professional engineers or disputes between professional land surveyors.

SECTION 2. That Section 54-1223, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(2) The work of an employee or a subordinate of a person holding

a certificate of registration under this chapter, or an employee of a person practicing lawfully under a temporary permit issued as provided in this chapter, provided such work does not include final engineering design or land surveying decisions and is done under the direct responsibility, checking, and supervision of, and verified by, a person holding a certificate of registration under this chapter or a person practicing lawfully under a temporary permit issued as provided in this chapter.

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

(4) An individual doing surveying work for himself, or through a firm, partnership or corporation, on property owned or leased by the individual, firm, partnership or corporation, or in which the individual, firm, partnership or corporation has an interest, estate or possessory right and which affects exclusively the property or interests of the individual, firm, partnership or corporation; provided, that all land surveying maps, plats or plans filed with any county recorder's office in the state of Idaho for the purpose of illustrating or defining boundaries of property ownership, shall be made and certified by a registered, professional land surveyor as provided in this chapter.

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

(6) The practice of engineering by employees of a corporation or a company as long as the services provided by them are for internal corporate or company use only.

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

~~C. During the period beginning July 1, 1996, and ending June 30, 1999, applicants shall be entitled to apply for licensure or certification under the provisions of section 54-1212, Idaho Code, which are in effect on June 30, 1996.~~

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

Approved March 24, 1999.

CHAPTER 274
(H.B. No. 72)

AN ACT

RELATING TO PERMISSIBLE INVESTMENTS FOR LICENSED MONEY TRANSMITTERS; AMENDING SECTION 26-2906, IDAHO CODE, TO PROVIDE THAT PERMISSIBLE INVESTMENTS, EVEN IF COMMINGLED WITH OTHER ASSETS OF THE LICENSEE, SHALL BE DEEMED BY OPERATION OF LAW TO BE HELD IN TRUST FOR THE BENEFIT OF THE PURCHASERS AND HOLDERS OF THE LICENSEE'S OUTSTANDING PAYMENT INSTRUMENTS IN THE EVENT OF THE BANKRUPTCY OF THE LICENSEE, AND SHALL BE IMMUNE FROM ATTACHMENT BY CREDITORS OR JUDGMENT HOLDERS.

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

SECTION 1. That Section 26-2906, Idaho Code, be, and the same is hereby amended to read as follows:

26-2906. PERMISSIBLE INVESTMENTS. Each licensee licensed under the provisions of this chapter must at all times possess permissible investments having an aggregate market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate face amount of all outstanding payment instruments issued or sold by the licensee in the United States. This requirement may be waived by the director if the dollar volume of a licensee's outstanding payment instruments does not exceed the bond or other security devices posted by the licensee pursuant to section 26-2908, Idaho Code. Permissible investments, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments in the event of the bankruptcy of the licensee, and shall be immune from attachment by creditors or judgment holders.

Approved March 24, 1999.

CHAPTER 275
(H.B. No. 73)

AN ACT

RELATING TO THE IDAHO CREDIT CODE; AMENDING SECTION 28-46-302, IDAHO CODE, TO DELETE THE REQUIREMENT THAT APPLICANTS SEEKING A REGULATED LENDER LICENSE NOTIFY ALL EXISTING LICENSEES BY PUBLISHING A NOTICE IN A LOCAL NEWSPAPER, TO DELETE THE REQUIREMENT THAT REGULATED LENDER LICENSEES SEEKING ADDITIONAL BRANCH OFFICE LICENSES COMPLETE SEPARATE LICENSING APPLICATIONS FOR EACH OFFICE AND TO REQUIRE THAT LICENSEES PROVIDE NOTIFICATION TO THE DEPARTMENT OF FINANCE AND PAYMENT OF THE REQUIRED FEE.

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

SECTION 1. That Section 28-46-302, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-302. LICENSE TO MAKE REGULATED CONSUMER LOANS. (1) ~~Upon receipt by the administrator of an application with the required fee to be fixed by the administrator, but not to exceed one hundred dollars (\$100), the applicant shall notify all existing licensees in the community of the application by publishing notice once a week for three (3) consecutive weeks in a newspaper of general circulation in the community. Such licensees may file with the administrator any objections to the issuance of a license within thirty (30) days after the date of the last publication of such notice.~~

(2) No application for license shall be denied if the administrator finds that:

(a) The financial responsibility, character, and fitness of the applicant, and of the officers and directors thereof (if the applicant is a corporation) are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this act; and

(b) The applicant has at least thirty thousand dollars (\$30,000) available for the purpose of making loans.

(3) The administrator is empowered to conduct investigations as he may deem necessary, to enable him to determine the existence of the requirements set out in subsections (2)(a) and (2)(b) of this section.

(4) The director may issue a license under this act to a mortgage lender licensed under chapter 31, title 26, Idaho Code, and who is engaged in the business described in subsection (1) or (2) of section 28-46-301, Idaho Code. All provisions of this act, except subsections (1), and (2) and (3) of this section, and subsection (5) of section 28-46-305, Idaho Code, shall apply to persons seeking a license pursuant to this subsection.

(5) Upon written request, the applicant is entitled to a hearing on the question of his qualifications for a license if:

(a) The administrator has notified the applicant in writing that his application has been denied, or objections filed; or

(b) The administrator has not issued a license within sixty (60) days after the application for the license was filed.

If a hearing is held, the applicant and those filing objections shall reimburse, pro rata, the administrator for his reasonable and necessary expenses incurred as a result of the hearing. A request for a hearing may not be made more than fifteen (15) days after the administrator has mailed a writing to the applicant notifying him that the application has been denied and stating in substance the administrator's finding supporting denial of the application or that objections have been filed and the substance thereof.

(6) The administrator may issue additional licenses to the same licensee upon ~~compliance with all the provisions of this act governing the issuance of a single license~~ notification by the licensee, in the manner prescribed by the administrator, and payment of the required fee. A separate license shall be required for each place of business. Each license shall remain in full force and effect until surrendered, suspended or revoked.

(76) No licensee shall change the location of any place of business, or consolidate, or close any locations, without giving the administrator at least fifteen (15) days' prior written notice. No licensee shall change the location of any of his places of business to a location more than five (5) miles from the original location or outside the original municipality, if any.

(87) A licensee shall not engage in the business of making regulated consumer loans at any place of business for which he does not hold a license nor shall he engage in business under any other name than that in the license.

Approved March 24, 1999.

CHAPTER 276
(H.B. No. 74)

AN ACT

RELATING TO THE IDAHO CREDIT UNION ACT; AMENDING SECTION 26-2127, IDAHO CODE, TO DELETE REFERENCES TO THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION AND REPLACE IT WITH REFERENCE TO THE FEDERAL DEPOSIT INSURANCE CORPORATION, TO ALLOW CREDIT UNIONS TO INVEST IN ANY CORPORATE CREDIT UNION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 26-2127, Idaho Code, be, and the same is hereby amended to read as follows:

26-2127. INVESTMENTS. Funds not used for loans to members may be invested in:

(a) Obligations fully guaranteed as to principal and interest by the United States government;

(b) Time certificates of deposits issued by any state or federally chartered bank within the state of Idaho whose accounts are insured by the ~~F~~federal ~~D~~deposit ~~I~~insurance ~~C~~corporation. Such time certificates of deposit may be made in an amount not to exceed the greater of the ~~F~~federal ~~D~~deposit ~~I~~insurance ~~C~~corporation insurance limits or one percent (1%) of the issuing bank's total deposits;

(c) Time certificates of deposit or savings accounts in any state or federally chartered savings and loan association within the state of Idaho whose accounts are insured by the ~~F~~federal ~~S~~savings--and--loan ~~d~~deposit ~~I~~insurance ~~C~~corporation in an amount not to exceed the greater of the ~~F~~federal ~~S~~savings--and--loan ~~d~~deposit ~~I~~insurance ~~C~~corporation insurance limit or one percent (1%) of the savings and loan's withdrawable savings liability;

(d) Shares of stock in a credit union service corporation as provided in this chapter; and

(e) Shares or deposits of ~~the-Idaho~~ a corporate credit union in an amount not to exceed ten percent (10%) of the ~~Idaho~~ corporate credit union's total outstanding shares, provided that the director

may approve an investment in shares or deposits in excess of the ten percent (10%) limitation contained in this subsection; and

(f) Shares in the Idaho league services corporation.

Approved March 24, 1999.

CHAPTER 277
(H.B. No. 147)

AN ACT

RELATING TO BONDS OF COLLECTION AGENCIES; AMENDING SECTION 26-2232, IDAHO CODE, TO INCREASE THE AMOUNT OF THE BOND EXECUTED TO THE STATE OF IDAHO FROM FIVE TO FIFTEEN THOUSAND DOLLARS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 26-2232, Idaho Code, be, and the same is hereby amended to read as follows:

26-2232. BONDS. Upon approval of the application and prior to the issuance of the permit the applicant must file in the department of finance two (2) bonds. Both bonds shall be in a form provided by the attorney general of this state, and shall be executed by the applicant as principal and by some surety company authorized to do business in this state as surety, and shall be for the term of any permit issued to the applicant. Each permittee shall be required to have the two (2) bonds for each permit as hereinafter provided. In lieu of the bonds required by this section, a certificate of deposit issued by an Idaho bank and made payable to the director may be provided to the director in the same principal amount as required for bonds. The interest on the certificate of deposit shall be payable to the permittee. The certificate of deposit shall be maintained at all times during which the permittee is authorized to do business under Idaho law, and must provide that it will remain in effect for at least three (3) years following discontinuance of operations, unless released earlier by the director when all statutory requirements have been met.

(a) A bond shall be executed to the state of Idaho in the sum of five fifteen thousand dollars (\$15,000) or upon renewal in such larger sum as hereinafter provided. In any case where a permittee or its representatives has failed to account for and pay over the proceeds of any collection made or money received for payment or prorating to creditors, or has failed to return to a debtor any sum received that was not to be applied to his debts, the creditor or debtor shall have in addition to all other legal remedies a right of action in his own name on such bond without the necessity of joining the permittee in such action. The bond shall be continuous in form and shall remain in full force and effect for the permit period. The surety may cancel the bond provided that the surety shall in such event provide the permittee and the commissioner director with notice thirty (30) days prior to cancelation of said bond. Such notice shall be by registered

or certified mail with request for a return receipt and addressed to the permittee at its main office and to the director. In no event shall the liability of the surety for any and all claims against the bond exceed the face amount of such bond.

Upon renewal of any permit, the permittee shall supply the director with a statement of the preceding year's net collections. The amount of the bond upon renewal shall be in the amount of five fifteen thousand dollars (\$15,000), or two (2) times the average monthly net collections for the preceding year computed to the next highest one thousand dollars (\$1,000), whichever sum is greater, up to a maximum of one hundred thousand dollars (\$100,000).

(b) A bond shall be executed to the state of Idaho in the sum of two thousand dollars (\$2,000), which shall be limited to the indemnification of the department of finance for any and all expenses incurred as a result of investigations, administrative proceedings, and prosecutions which shall be instituted by the director against a permittee or licensee pursuant to this act. The bond shall be continuous in form and remain in full force and effect and run concurrently with the permit period and any renewal thereof. The surety may cancel the bond provided that the surety shall in such event provide the permittee and the director with notice thirty (30) days prior to cancellation of said bond. Such notice shall be registered or certified mail with request for a return receipt and addressed to the permittee at its main office and to the director. In no event shall the liability of the surety for any and all claims against the bond exceed the face amount of such bond.

Approved March 24, 1999.

CHAPTER 278
(H.B. No. 148)

AN ACT

RELATING TO WORKER'S COMPENSATION RATES; AMENDING CHAPTER 16, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1626, IDAHO CODE, TO PROVIDE THAT AN INSURER ISSUING A WORKER'S COMPENSATION INSURANCE CONTRACT MAY INCLUDE AS PART OF THE CONTRACT A COMPENSATION REIMBURSEMENT OPTION TO THE POLICYHOLDER, AND TO PROVIDE CONDITIONS AND PROCEDURES TO EXERCISE SUCH OPTION.

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

SECTION 1. That Chapter 16, 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 41-1626, Idaho Code, and to read as follows:

41-1626. COMPENSATION REIMBURSEMENT OPTION. Notwithstanding any other provision of this code, an insurer issuing a worker's compensation insurance contract may include as part of the contract an option allowing a policyholder at the policyholder's sole discretion, to

reimburse the insurer for compensation in amounts not to exceed one thousand dollars (\$1,000) per claim, subject to the following conditions:

(1) Claimant's rights shall be properly protected, and claimant's benefits have been paid by the insurer.

(2) The insurer shall pay all benefits of a compensable claim to the person or provider entitled to benefits regardless of the policyholder's option to reimburse the insurer for the claim. Payment of benefits shall not be delayed due to the decision of a policyholder to reimburse the insurer for the claim.

(3) The making of such reimbursement does not constitute a waiver or transfer of the insurer's duty to determine entitlement to benefits.

(4) In the event the insurer recovers any medical costs on a claim reimbursed pursuant to this section, the insurer shall repay the policyholder within thirty (30) days an amount equal to recovered medical costs.

(5) The claim to which a reimbursement by the policyholder applies may not exceed one thousand dollars (\$1,000) over the life of the claim. Should a claim exceed the one thousand dollar (\$1,000) limit after a portion has been reimbursed by the policyholder, the insurer shall within thirty (30) days notify the policyholder and return the reimbursement and adjust all reports accordingly.

(6) The policyholder shall make all reports of accidents, injuries and losses to the insurer as required under the provisions of title 72, Idaho Code, regardless of the policyholder's intent to reimburse the insurer.

(7) The insurer shall record and report all losses for the purpose of setting industry rates.

(8) Claims reimbursed pursuant to this section shall not be reported to a rating organization for the purpose of determining the policyholder's experience rating, nor shall the insurer otherwise increase a policyholder's experience rating or otherwise make charges against the policyholder for any compensation reimbursed by the policyholder pursuant to this section.

(9) No reduction in current premium may be granted as a result of a reimbursed claim.

(10) Nothing in this section shall apply to worker's compensation insurance contracts offering the policyholder a deductible pursuant to the provisions of title 72, Idaho Code.

(11) If the insurer offers the reimbursement option and the policyholder elects to exercise such option, the procedure for reimbursement shall be as follows:

(a) Within thirty (30) days following each three (3) month period after policy inception or a period mutually agreed upon by the policyholder and the insurer, the insurer shall provide the policyholder with a list of all accepted nondisabling claims for which payments were made during that period and the respective cost of each claim.

(b) No later than thirty (30) days after receipt of the list, the policyholder shall identify the claims and the dollar amount the policyholder elects to reimburse for that period, and the policyholder shall reimburse the insurer accordingly.

(c) Failure by the policyholder to reimburse the insurer within the thirty (30) days allowed shall be deemed notice to the insurer that the policyholder has not elected to make any reimbursement for that period.

Approved March 24, 1999.

CHAPTER 279
(H.B. No. 164)

AN ACT

RELATING TO SALES TAX EXEMPTIONS; AMENDING SECTION 63-36220, IDAHO CODE, TO PROVIDE THAT THE CHILDREN'S HOME SOCIETY OF IDAHO SHALL BE DEFINED AS A HEALTH-RELATED ENTITY FOR SALES TAX EXEMPTION PURPOSES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-36220, Idaho Code, be, and the same is hereby amended to read as follows:

63-36220. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS. (1) There are exempted from the taxes imposed by this chapter:

- (a) Sales to or purchases by hospitals, health-related entities, educational institutions, forest-protective associations and canal companies which are nonprofit organizations; and
- (b) Donations to, sales to, and purchases by the Idaho Foodbank Warehouse, Inc.; and
- (c) Donations to, sales to, and purchases by food banks or soup kitchens of food or other tangible personal property used by food banks or soup kitchens in the growing, storage, preparation or service of food, but not including licensed motor vehicles or trailers; and
- (d) Sales of clothes to, donations of clothes to, and purchases of clothes by nonsale clothiers; and
- (e) Sales to or purchases by centers for independent living; and
- (f) Sales to or purchases by the state of Idaho and its agencies and its political subdivisions.

(2) As used in this section, these words shall have the following meanings:

(a) "Educational institution" shall mean nonprofit colleges, universities, primary and secondary schools, the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.

(b) "Hospital" shall include nonprofit institutions licensed by

the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.

(c) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Mental Health Association, The Arc, The Children's Home Society of Idaho, Idaho Heart Association, Idaho Ronald McDonald House, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, Easter Seals, and Idaho Special Olympics, together with said entities' local or regional chapters or divisions.

(d) "Canal companies" shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.

(e) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to chapter 1, title 38, Idaho Code.

(f) "Food banks or soup kitchens" shall mean any nonprofit corporation or association, other than the Idaho Foodbank Warehouse, Inc., one of whose regular activities is the furnishing or providing of food or food products to others without charge.

(g) "Nonsale clothier" shall mean any nonprofit corporation or association one of whose primary purposes is the furnishing or providing of clothes to others without charge.

(h) "Clothes" shall mean garments in general, designed or intended to be worn by humans and shall include footwear in addition to wearing apparel.

(i) "Center for independent living" shall mean a private, nonprofit, ~~non-residential~~ nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

- (i) Is designed and operated within a local community by individuals with disabilities;
- (ii) Provides an array of independent living services and programs; and
- (iii) Is cross-disability.

(j) "Political subdivision" means:

- (i) A governmental organization which:
 - 1. Embraces a certain territory,
 - 2. Is organized for public advantage and not in the interest of private individuals or classes,
 - 3. Has been delegated functions of government, and
 - 4. Has the statutory power to levy taxes; or
- (ii) A public health district created by section 39-408, Idaho Code; or
- (iii) A soil conservation district as defined in section

22-2717, Idaho Code; or
(iv) A drainage district created pursuant to chapter 29, title 42, Idaho Code; or
(v) An irrigation district created pursuant to title 43, Idaho Code; or
(vi) A state grazing board created by section 57-1204, Idaho Code; or
(vii) A water measurement district created pursuant to section 42-705 or 42-706, Idaho Code; or
(viii) A ground water management district created pursuant to chapter 51, title 42, Idaho Code.
(ix) An agency of the state of Idaho is an office or organization created by the constitution or statutes of this state and constituting a component part of the executive, judicial or legislative branch of the government of this state.

(3) The exemption granted by subsection (1)(f) of this section does not include any association or other organization whose members are political subdivisions or state agencies unless the organization is expressly created under the joint powers provision of sections 67-2328 through 67-2333, Idaho Code.

(4) The exemption granted by subsection (1)(f) of this section does not include the use of tangible personal property by a contractor used to improve real property of an exempt entity when such use is within the definition provided by section 63-3615(b), Idaho Code, whether the use tax liability is included in a contract total or stated separately in a contract.

(5) There is exempted from the taxes imposed in this chapter, the renting of a place to sleep to an individual by the Idaho Ronald McDonald House.

Approved March 24, 1999.

CHAPTER 280

(H.B. No. 206, As Amended in the Senate)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2701, IDAHO CODE, TO DELETE AN EXCEPTION FOR THE PREPARATION OF A CONTROLLED SUBSTANCE BY AN INDIVIDUAL FOR HIS OWN USE OR THE PACKAGING OF A CONTROLLED SUBSTANCE FROM THE DEFINITION OF MANUFACTURE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 37-2701, Idaho Code, be, and the same is hereby amended to read as follows:

37-2701. DEFINITIONS. As used in this act:

(a) "Administer" means the direct application of a controlled substance whether by injection, inhalation, ingestion, or any other

means, to the body of a patient or research subject by:

(1) A practitioner (or, in his presence, by his authorized agent), or

(2) The patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(c) "Board" means the state board of pharmacy created in chapter 17, title 54, Idaho Code, or its successor agency.

(d) "Bureau" means the Bureau of Narcotic and Dangerous Drugs, United States Department of Justice, or its successor agency.

(e) "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V of article II of this act.

(f) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, ~~trade-name~~ trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(g) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one (1) person to another of a controlled substance, whether or not there is an agency relationship.

(h) "Director" means the director of the department of law enforcement of the state of Idaho.

(i) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(j) "Dispenser" means a practitioner who dispenses.

(k) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(l) "Distributor" means a person who distributes.

(m) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(n) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this act. It includes, but is not limited to:

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (b) Water pipes;
 - (c) Carburetion tubes and devices;
 - (d) Smoking and carburetion masks;
 - (e) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - (f) Miniature cocaine spoons, and cocaine vials;
 - (g) Chamber pipes;
 - (h) Carburetor pipes;
 - (i) Electric pipes;
 - (j) Air-driven pipes;
 - (k) Chillums;
 - (l) Bonges;
 - (m) Ice pipes or chillers;

In determining whether an object is drug paraphernalia, a court or

other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
3. The proximity of the object, in time and space, to a direct violation of this act;
4. The proximity of the object to controlled substances;
5. The existence of any residue of controlled substances on the object;
6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this act shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
7. Instructions, oral or written, provided with the object concerning its use;
8. Descriptive materials accompanying the object which explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community;
14. Expert testimony concerning its use.

(o) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or under the jurisdiction of an agency of the United States.

(p) "Immediate precursor" means a substance which the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(q) "Law enforcement agency" means a governmental unit of one (1) or more persons employed full time or part time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(r) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, and includes extraction, directly or indirectly, from substances of natural origin, or independently by means of chemical synthesis, or by a

combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance ~~by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:~~

(1) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(2) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for delivery.

(s) "Marijuana" means all parts of the plant of the genus Cannabis, regardless of species, and whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. It does not include the mature stalks of the plant unless the same are intermixed with prohibited parts thereof, fiber produced from the stalks, oil or cake made from the seeds or the achene of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom or where the same are intermixed with prohibited parts of such plant), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. Evidence that any plant material or the resin or any derivative thereof, regardless of form, contains any of the chemical substances classified as tetrahydrocannabinols shall create a presumption that such material is "marijuana" as defined and prohibited herein.

(t) "Narcotic drug" means any of the following, 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.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including 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, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(u) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 37-2702, Idaho Code, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(v) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(w) "Peace officer" means any duly appointed officer or agent of a law enforcement agency, as defined herein, including, but not limited to, a duly appointed investigator or agent of the department of law enforcement, an officer or employee of the board of pharmacy, who is authorized by the board to enforce this act, an officer of the Idaho state police division or any other division of the department of law enforcement, a sheriff or deputy sheriff of a county, or a marshal or policeman of any city.

(x) "Person" means individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(y) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(z) "Practitioner" means:

(1) A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of his professional practice or research in this state;

(2) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of their professional practice or research in this state.

(aa) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(bb) "Simulated controlled substance" means a substance that is not a controlled substance, but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes, but is not limited to, color, shape, size, and markings of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature:

(1) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(2) Statements made to the recipient that the substance may be resold for inordinate profit; or

(3) Whether the substance is packaged in a manner normally used for illicit controlled substances.

(cc) "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(dd) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(ee) "Utility" means any person, association, partnership or corporation providing telephone and/or communication services, electricity, natural gas or water to the public.

Approved March 24, 1999.

CHAPTER 281
(H.B. No. 207, As Amended in the Senate)

AN ACT

RELATING TO RATES FOR AND THE ELECTRONIC PUBLICATION OF OFFICIAL NOTICES; AMENDING SECTION 60-105, IDAHO CODE, TO PROVIDE FOR A ONE-HALF CENT INCREASE IN RATES; AMENDING SECTION 60-105, IDAHO CODE, AS AMENDED IN SECTION 1 OF THIS ACT, TO PROVIDE A ONE-HALF CENT INCREASE IN RATES; AMENDING CHAPTER 1, TITLE 60, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 60-106A, IDAHO CODE, TO PROVIDE FOR THE ELECTRONIC PUBLICATION OF OFFICIAL NOTICES, TO DEFINE TERMS, TO PROVIDE THAT ELECTRONIC PUBLICATION MAY BE IN ADDITION TO PUBLICATION IN A NEWSPAPER, TO PROVIDE THAT ELECTRONIC PUBLICATION BY NEWSPAPERS SHALL BE AT THE OPTION OF THE NEWSPAPER, TO PROVIDE THAT NEWSPAPERS MAY NOT CHARGE AN ADDITIONAL RATE FOR ELECTRONIC PUBLICATION, TO PROVIDE THAT MESSAGING ADDRESSES SHOULD BE INCLUDED IN OFFICIAL NOTICES TO THE GREATEST EXTENT PRACTICABLE; TO PROVIDE LEGISLATIVE FINDINGS AND PROVIDE FOR A COMMITTEE TO REVIEW STATUTORY OFFICIAL NOTICE REQUIREMENTS; AND TO PROVIDE EFFECTIVE DATES.

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

SECTION 1. That Section 60-105, Idaho Code, be, and the same is hereby amended to read as follows:

60-105. RATES FOR OFFICIAL NOTICES. The rate to be charged for all official notices required by law to be published in any newspaper in this state, by any state, county, municipal official or other person, shall be as follows: six and one-half cents (6 $\frac{1}{2}\text{¢}$) for each pica in a column line for the first insertion and five and one-half cents (5 $\frac{1}{2}\text{¢}$) for each pica in a column line for each subsequent insertion. For table and figure matter, the rate shall be seven and one-half cents (7 $\frac{1}{2}\text{¢}$) for each pica in a column line for the first insertion, and five and one-half cents (5 $\frac{1}{2}\text{¢}$) for each pica in a column line for each subsequent insertion. In the event that a column line ends in a one-half (1/2) pica measurement, the rate for such one-half (1/2) pica shall be one-half (1/2) the rate established for a full pica for the type of matter set forth herein. For purposes of this section, the type used shall not be smaller than 7 point nor greater than 8 point.

SECTION 2. That Section 60-105, Idaho Code, as amended in Section 1 of this act, be, and the same is hereby amended to read as follows:

60-105. RATES FOR OFFICIAL NOTICES. The rate to be charged for all official notices required by law to be published in any newspaper in this state, by any state, county, municipal official or other person, shall be as follows: ~~six-and-one-half~~ seven cents (~~6-1/2~~7¢) for each pica in a column line for the first insertion and ~~five--and--one-half~~ six cents (~~5-1/2~~6¢) for each pica in a column line for each subsequent insertion. For table and figure matter, the rate shall be ~~seven--and--one-half~~ eight cents (~~7-1/2~~8¢) for each pica in a column line for the first insertion, and ~~five--and--one-half~~ six cents (~~5-1/2~~6¢) for each pica in a column line for each subsequent insertion. In the event that a column line ends in a one-half (1/2) pica measurement, the rate for such one-half (1/2) pica shall be one-half (1/2) the rate established for a full pica for the type of matter set forth herein. For purposes of this section, the type used shall not be smaller than 7 point nor greater than 8 point.

SECTION 3. That Chapter 1, Title 60, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 60-106A, Idaho Code, and to read as follows:

60-106A. ELECTRONIC PUBLICATION OF LEGAL NOTICES BY NEWSPAPERS.

(1) In addition to the newspaper publication required by section 60-106, Idaho Code, legal notices, advertisements or publications of any kind required or provided by the laws of the state of Idaho to be published in a newspaper may also be electronically published by any newspaper. An electronically published legal notice, advertisement or publication shall have the same legal effect as a legal notice, advertisement or publication that is published in a newspaper.

(2) The following definitions apply to this section:

(a) "Electronically published" means the printing and disseminating of legal notices, advertisements or publications through the use of messaging.

(b) "Messaging" means the use of interconnected electronic networks that automatically transmit data from one (1) computer to another.

(3) The following provisions apply to this section:

(a) Electronic publication may be in addition to the required printed publication in a newspaper; and

(b) Electronic publication may be made by newspapers having electronic publication capability. Nothing in this section shall be construed to require a newspaper to develop and maintain an electronic publication capability; and

(c) Newspapers may not charge an additional rate for electronic publication. Rates for such electronic publication shall be included in the rates for official notices as provided for in section 60-105, Idaho Code; and

(d) Any party placing a legally required public notice in electronic form should, to the greatest extent practicable, provide in such notices the messaging address of the newspaper and, if applicable, that of the person or governmental agency requiring such notice to be published.

SECTION 4. LEGISLATIVE FINDINGS -- REVIEW OF OFFICIAL NOTICE REQUIREMENTS. (1) The Legislature of the State of Idaho finds that:

(a) The Idaho Code requires the publication of numerous official notices in newspapers of the state by cities, counties and citizens;

(b) That the requirement to publish certain official notices may no longer be appropriate or may require modification due to changes in circumstances;

(c) That other matters that should be published as official notice may not; and

(d) A comprehensive review of all official notice requirements by interested parties is necessary.

(2) Therefore, the Legislature of the State of Idaho requests that representatives of the Secretary of State, the Idaho State Bar, the Association of Idaho Cities, the Association of Idaho Counties, the allied daily newspapers and the Idaho Newspaper Association form a committee to review existing statutory official notice requirements. The committee is requested to consult with the chair of the Senate Judiciary and Rules Committee and the chair of the House of Representatives Judiciary, Rules and Administration Committee during the interim between the First and Second Regular Sessions of the Fifty-fifth Idaho Legislature in conducting such review. The committee will recommend, if appropriate, any legislation necessary in response to the legislative findings contained in this section.

SECTION 5. Sections 1, 3 and 4 of this act shall be in full force and effect on and after January 1, 2000. Section 2 of this act shall be in full force and effect on and after January 1, 2001.

Approved March 24, 1999.

CHAPTER 282
(H.B. No. 227)

AN ACT

RELATING TO THE IDAHO ELECTRICAL BOARD; AMENDING SECTION 54-1006, IDAHO CODE, TO INCREASE MEMBERSHIP OF THE BOARD AND TO SPECIFY QUALIFICATIONS FOR MEMBERS OF THE BOARD.

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

SECTION 1. That Section 54-1006, Idaho Code, be, and the same is hereby amended to read as follows:

54-1006. IDAHO ELECTRICAL BOARD. (1) The Idaho electrical board, hereinafter known as the board, is hereby created and made a part of the division of building safety. It shall be the responsibility and duty of the administrator of the division of building safety to administer and enforce the provisions of this act, to serve as secretary to the Idaho electrical board, and to appoint the chief electrical inspector.

(2) The board shall consist of seven nine (79) members to be appointed by the governor with power of removal for cause. Two (2) members shall be licensed journeymen or master electricians; two (2) members shall be employees or officers of licensed electrical contractors; one (1) member shall be a licensed specialty journeyman or contractor; one (1) member shall be an employee or officer of an electrical power provider; one (1) member shall be an employee or officer of a manufacturing plant or other large power user; one (1) member shall be an employee or director of a manufacturer or distributor of electrical supplies or materials; and one (1) member shall be from the public at large not directly associated with the electrical industry. Board members shall be appointed for a term of four (4) years. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(3) All members of the board shall be citizens of the United States, residents of this state for not less than two (2) years and shall be qualified by experience, knowledge and integrity in formulating rules for examinations, in passing on the fitness and qualifications of applicants for electrical contractor and journeyman electrician licenses and in establishing standards for electrical products to be used in electrical installations coming under the provisions of this act.

(4) The members of the board shall, at their first regular meeting following the effective date of this act and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. In the event the chairman is not present at any board meeting, the board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the board shall constitute a quorum.

(5) The board is authorized and directed to prescribe and amend rules consistent with this act for the administration of this chapter and to effectuate the purpose thereof, and for the licensing of electrical contractors and the examination and licensing of journeyman electricians. The board shall also establish the fees to be charged for permits and inspections of electrical systems.

(6) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509(g), Idaho Code.

Approved March 24, 1999.

CHAPTER 283

(H.B. No. 240, As Amended, As Amended)

AN ACT

RELATING TO THE SALE OF ELECTRIC POWER BY CITIES; AMENDING SECTION 50-342, IDAHO CODE, TO PROVIDE THAT CITIES OWNING AND OPERATING AN ELECTRIC DISTRIBUTION SYSTEM MAY ENTER INTO POWER PURCHASE AGREEMENTS, TO PROVIDE AUTHORITY FOR SUCH CITIES TO ESTABLISH, OPERATE AND FUND ENERGY CONSERVATION AND EFFICIENCY PROGRAMS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 50-342, Idaho Code, be, and the same is hereby amended to read as follows:

50-342. ELECTRIC POWER -- PURCHASE OR DISPOSAL. In addition to the powers otherwise conferred on cities of this state, a city owning and operating an electric distribution system shall have the authority to:

(a) purchase, or generate, or both, electric power and energy for the purpose of disposing of such power and energy to the United States of America, department of energy, acting by and through the Bonneville power administration, or its successor, through exchange, net billing or any arrangement which is used for supplying the needs of the city for electric power or energy; and

(b) ~~Enter into power sales or power purchase contracts with entities engaged in generating, transmitting, or distributing electric power and energy to provide for the purchase, sale or exchange of electric power or energy generated by the city from improvements to its electric system during the period the city, on the basis of engineering studies, determines that the electric power or energy to be sold or exchanged will not be required by the city for distribution in its electric system;~~ upon such terms and conditions as shall be specified in the power sales or purchase contract; and

(c) Establish, operate and fund energy conservation or other public purpose programs for the purpose of promoting efficient use of energy and energy conservation by city consumers including, but not limited to, programs to install energy efficient and energy conservation devices or measures in consumer buildings and structures served by the city and to grant low-interest loans to city consumers for the installation of such measures, provided such measures are provided on a nondiscriminatory basis to all classes of customers similarly situated;

and such authority shall not be subject to the requirements, limitations, or procedures contained in sections 50-325, and 50-327 and 50-341, Idaho Code.

Approved March 24, 1999.

CHAPTER 284
(H.B. No. 251)

AN ACT
RELATING TO APPORTIONMENT OF FUNDS FROM THE HIGHWAY DISTRIBUTION ACCOUNT; AMENDING SECTION 40-709, IDAHO CODE, TO PROVIDE FOR A PERCENTAGE DISTRIBUTION TO THE LOCAL HIGHWAY TECHNICAL ASSISTANCE COUNCIL AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 40-709, Idaho Code, be, and the same is hereby amended to read as follows:

40-709. APPORTIONMENT OF FUNDS FROM HIGHWAY DISTRIBUTION ACCOUNT TO LOCAL UNITS OF GOVERNMENT. Commencing July 1, 1994⁹, and each fiscal year thereafter, from the moneys appropriated from the highway distribution account to local units of government, ~~the sum of two hundred--fifty-thousand-dollars-(\$250,000)~~ three hundred twenty-six thousandths of one percent (0.326%) is appropriated to the local highway technical assistance council, and the balance of the appropriation shall be distributed as follows:

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

(2) The remainder shall be apportioned:

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

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

(c) Forty-five per-cent percent (45%) shall be divided among the counties of the state in the proportion that the number of miles of improved highways in the county highway system of each county bears to the total number of miles of improved highways in the county highway systems of all counties in the state. The director is directed to certify to the state controller, on or before January 1 of each year, the number of miles of improved highways in each county.

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

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

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

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

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

and October 25 of each year.

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

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

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

Approved March 24, 1999.

CHAPTER 285
(H.B. No. 265)

AN ACT

RELATING TO CONFINEMENT UNDER THE DEATH PENALTY; PROVIDING A STATEMENT OF LEGISLATIVE INTENT; AMENDING CHAPTER 27, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-2705, IDAHO CODE, TO PROVIDE FOR CONTACT VISITS BETWEEN A CONDEMNED PRISONER AND THE ATTORNEY OF RECORD AND FOR NONCONTACT VISITS BETWEEN THE CONDEMNED PRISONER AND SPECIFIED AGENTS OF THE ATTORNEY OF RECORD IN ACCORDANCE WITH PRISON RULES, TO PROVIDE DEFINITIONS, TO PROVIDE THAT PRISON OFFICIALS MAY SUSPEND OR DENY VISITATION IF THE SECURE AND ORDERLY OPERATION OF THE FACILITY OR THE PUBLIC SAFETY COULD BE COMPROMISED AND TO PROVIDE THAT THE SECTION SHALL NOT CREATE A LIBERTY INTEREST IN THE CONDEMNED PERSON OR EXPAND THE RIGHT OF ACCESS TO COURTS UNDER STATE OR FEDERAL LAW; AMENDING SECTION 19-2705, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR CONTACT VISITS BETWEEN THE CONDEMNED PERSON AND THE ATTORNEY OF RECORD IN ACCORDANCE WITH PRISON RULES WHERE A DEATH WARRANT HAS BEEN ISSUED AND EXECUTION HAS NOT BEEN STAYED, TO PROVIDE A DEFINITION, TO PROVIDE THAT PRISON OFFICIALS MAY SUSPEND OR DENY VISITATION IF THE SECURE AND ORDERLY OPERATION OF THE FACILITY OR THE PUBLIC SAFETY COULD BE COMPROMISED AND TO PROVIDE THAT THE SECTION SHALL NOT CREATE A LIBERTY INTEREST IN THE CONDEMNED PERSON OR EXPAND THE RIGHT OF ACCESS TO COURTS UNDER STATE OR FEDERAL LAW; AND DECLARING AN EMERGENCY.

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

SECTION 1. STATEMENT OF LEGISLATIVE INTENT. The purpose of this act is to provide prisoners condemned to death with reasonable access to their attorneys and specified agents of their attorneys, subject to strict adherence to prison rules. The legislation authorizes noncontact visits between the condemned person and agents of the attorney of record and contact visits between the condemned person and his attorney of record. The Legislature recognizes that providing attorneys access to clients on death row is necessary if the client is to obtain a fair and adequate defense. The Legislature further recognizes that under American jurisprudence an adequate defense of a death penalty inmate is an interdisciplinary endeavor requiring the skills of counsel, experts, investigators and paralegals working together on the convict's behalf. Each member of the team must have access to the client if the client is to be represented competently and fairly.

The Legislature also recognizes that prison administrators must be free to exercise professional discretion in determining the steps necessary to ensure the orderly functioning of the facility and to secure the safety of prison staff, inmates and visitors. Prison administrators are under an obligation to take reasonable measures to guarantee public safety and must be alert to and prevent, so far as possible, any attempts to introduce drugs, contraband or illicit weapons into the prisons. It is critical that prison administrators maintain the necessary discretion and control of prison functions, including outside access to prisoners, especially those condemned to death.

In authorizing attorneys and their agents access to their clients on death row and in permitting attorneys to have contact visits with their clients, it is the intent of the Legislature that such visits occur in strict accordance with prison rules and subject to the authority of prison officials to suspend or deny those visits if the safe, secure and orderly operation of the facility or the public safety could be compromised.

SECTION 2. That Chapter 27, 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 19-2705, Idaho Code, and to read as follows:

19-2705. DEATH SENTENCE AND CONFINEMENT THEREUNDER -- ACCESS TO CONDEMNED PERSON. (1) Whenever a person is sentenced to death, the warden shall keep such condemned person in solitary confinement until execution. No person shall be allowed access to the condemned person except law enforcement personnel investigating matters within the scope of their duties, the attorney of record and agents of the attorney of record, attending physicians, a spiritual adviser of the condemned's choosing, and members of the immediate family of the condemned, and then only in accordance with prison rules. Persons under sentence of death will be allowed contact visits with their attorneys of record. Such visits will take place subject to prison rules. No other contact visits shall be permitted. Prison officials have authority to suspend or deny visits when the safe, secure and orderly opera-

tion of the facility or public safety could be compromised.

(2) For the purposes of this section an "agent of the attorney of record" is defined as an employee of the attorney of record to include an investigator, paralegal, legal intern, or mitigation specialist but does not include retained experts or other independent contractors of the attorney of record.

(3) For the purposes of this section a "legal intern" is defined as a qualified law student or recent law school graduate who, upon application and approval by the Idaho state bar association, is granted a limited license to engage in the practice of law.

(4) For the purposes of this section a "contact visit" is defined as a meeting between the condemned person and the attorney of record during which the parties are not separated by a screen or other partition which prohibits physical contact. Contact visits will take place in a private, confidential setting where the prisoner and his attorney are in the same room.

(5) Nothing in this section shall be construed to create a liberty interest in the condemned person or to expand the right of access to courts under state or federal law.

SECTION 3. That Section 19-2705, Idaho Code, be, and the same is hereby amended to read as follows:

19-27056. DEATH WARRANT AND CONFINEMENT THEREUNDER -- ACCESS TO CONDEMNED PERSON. (1) Whenever a person is sentenced to death, the judge passing sentence shall, in accordance with section 19-2719, Idaho Code, sign and file a death warrant fixing a date of execution not more than thirty (30) days thereafter.

(2) The warrant shall be directed to the warden of the state penitentiary and shall be delivered to him forthwith.

(3) Whenever a person is under death warrant, execution of which has not been stayed, the warden shall keep the condemned persons under--sentence--of--death in solitary confinement until execution. of the death penalty; nNo person shall be allowed access to the said-convict condemned person except law enforcement personnel investigating matters within the scope of their duties, counsel the attorney of record, attending physicians, a spiritual adviser of the condemned's choosing, and members of the immediate family of the condemned, and then only in accordance with the prison rules. Persons under sentence of death will be allowed contact visits with their attorneys of record. Such visits will take place subject to prison rules. No other contact visits shall be permitted. Prison officials have authority to suspend or deny visits when the safe, secure and orderly operation of the facility or public safety could be compromised.

(4) For purposes of this section a "contact visit" is defined as a meeting between a condemned person and the attorney of record during which the parties are not separated by a screen or other partition which prohibits physical contact. Contact visits will take place in a private, confidential setting where the prisoner and his attorney are in the same room.

(5) Nothing in this section shall be construed to create a liberty interest in the condemned person or to expand the right of access to courts under state or federal law.

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, 1999.

CHAPTER 286
(H.B. No. 267, As Amended in the Senate)

AN ACT

RELATING TO WORKER'S COMPENSATION INSURANCE RATES; AMENDING SECTION 41-1601, IDAHO CODE, TO PROVIDE THAT THE STATUTES ON WORKER'S COMPENSATION INSURANCE RATES SHALL APPLY TO ANY INSURANCE ON HAZARDS OR PERILS OF ITS SUBSCRIBERS OUTSIDE A SINGLE INDUSTRY WRITTEN BY A DOMESTIC RECIPROCAL INSURER TRANSACTING WORKER'S COMPENSATION INSURANCE ONLY AND INSURING SOLELY THE HAZARDS OR PERILS OF ITS SUBSCRIBERS ASSOCIATED WITH A SINGLE INDUSTRY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-1601, Idaho Code, be, and the same is hereby amended to read as follows:

41-1601. SCOPE OF CHAPTER. (1) This chapter applies as to ~~workmen's~~ worker's compensation insurance as defined in section 41-506(1)(d), Idaho Code, and to insurance or guaranty by surety insurers of the obligations of employers under ~~Workmen's~~ worker's compensation laws.

(2) This chapter shall not apply as to any domestic reciprocal insurer transacting ~~workmen's~~ worker's compensation insurance only and insuring solely the hazards or perils of its subscribers exclusively associated with a single industry. However, if such a domestic reciprocal insurer transacting worker's compensation insurance wishes to insure hazards or perils outside a single industry, insurance written on such different hazards shall be subject to the provisions of this chapter.

Approved March 24, 1999.

CHAPTER 287
(H.B. No. 273)

AN ACT

RELATING TO EXEMPTIONS FROM THE SALES TAX; AMENDING SECTION 63-36220, IDAHO CODE, TO ADD THE IDAHO COMMUNITY ACTION AGENCIES, IDAHO PRI-

MARY CARE ASSOCIATION AND COMMUNITY HEALTH CENTERS WHO ARE MEMBERS OF THE IDAHO PRIMARY CARE ASSOCIATION TO THE DEFINITION OF HEALTH-RELATED ENTITIES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-36220, Idaho Code, be, and the same is hereby amended to read as follows:

63-36220. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS. (1) There are exempted from the taxes imposed by this chapter:

(a) Sales to or purchases by hospitals, health-related entities, educational institutions, ~~forest-protective~~ forest protective associations and canal companies which are nonprofit organizations; and

(b) Donations to, sales to, and purchases by the Idaho Foodbank Warehouse, Inc.; and

(c) Donations to, sales to, and purchases by food banks or soup kitchens of food or other tangible personal property used by food banks or soup kitchens in the growing, storage, preparation or service of food, but not including licensed motor vehicles or trailers; and

(d) Sales of clothes to, donations of clothes to, and purchases of clothes by nonsale clothiers; and

(e) Sales to or purchases by centers for independent living; and

(f) Sales to or purchases by the state of Idaho and its agencies and its political subdivisions.

(2) As used in this section, these words shall have the following meanings:

(a) "Educational institution" shall mean nonprofit colleges, universities, primary and secondary schools, the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.

(b) "Hospital" shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.

(c) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Mental Health Association, The Arc, Idaho Heart Association, Idaho Ronald McDonald House, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, Easter Seals, Idaho Community Action Agencies, Idaho Primary Care Association and community health centers who are members of the Idaho Primary Care Association and Idaho Special Olympics, together with said entities' local or regional chapters or divisions.

(d) "Canal companies" shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.

(e) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to chapter 1, title 38, Idaho Code.

(f) "Food banks or soup kitchens" shall mean any nonprofit corporation or association, other than the Idaho Foodbank Warehouse, Inc., one of whose regular activities is the furnishing or providing of food or food products to others without charge.

(g) "Nonsale clothier" shall mean any nonprofit corporation or association one of whose primary purposes is the furnishing or providing of clothes to others without charge.

(h) "Clothes" shall mean garments in general, designed or intended to be worn by humans and shall include footwear in addition to wearing apparel.

(i) "Center for independent living" shall mean a private, nonprofit, ~~non-residential~~ nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

(i) Is designed and operated within a local community by individuals with disabilities;

(ii) Provides an array of independent living services and programs; and

(iii) Is cross-disability.

(j) "Political subdivision" means:

(i) A governmental organization which:

1. Embraces a certain territory,
2. Is organized for public advantage and not in the interest of private individuals or classes,
3. Has been delegated functions of government, and
4. Has the statutory power to levy taxes; or

(ii) A public health district created by section 39-408, Idaho Code; or

(iii) A soil conservation district as defined in section 22-2717, Idaho Code; or

(iv) A drainage district created pursuant to chapter 29, title 42, Idaho Code; or

(v) An irrigation district created pursuant to title 43, Idaho Code; or

(vi) A state grazing board created by section 57-1204, Idaho Code; or

(vii) A water measurement district created pursuant to section 42-705 or 42-706, Idaho Code; or

(viii) A ground water management district created pursuant to chapter 51, title 42, Idaho Code.

(ix) An agency of the state of Idaho is an office or orga-

nization created by the constitution or statutes of this state and constituting a component part of the executive, judicial or legislative branch of the government of this state.

(3) The exemption granted by subsection (1)(f) of this section does not include any association or other organization whose members are political subdivisions or state agencies unless the organization is expressly created under the joint powers provision of sections 67-2328 through 67-2333, Idaho Code.

(4) The exemption granted by subsection (1)(f) of this section does not include the use of tangible personal property by a contractor used to improve real property of an exempt entity when such use is within the definition provided by section 63-3615(b), Idaho Code, whether the use tax liability is included in a contract total or stated separately in a contract.

(5) There is exempted from the taxes imposed in this chapter, the renting of a place to sleep to an individual by the Idaho Ronald McDonald House.

Approved March 24, 1999.

CHAPTER 288

(H.B. No. 284, As Amended, As Amended in the Senate)

AN ACT

RELATING TO FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1420, IDAHO CODE, TO PROVIDE A PROCEDURE WHERE CERTAIN FIRE PROTECTION DISTRICTS CAN INCREASE THEIR LEVY RATE UPON SIXTY-SIX AND TWO-THIRDS PERCENT VOTER APPROVAL AND PROVIDING A SUNSET CLAUSE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 31-1420, Idaho Code, be, and the same is hereby amended to read as follows:

31-1420. LEVY. (1) Each year, immediately prior to the annual county levy of taxes, the board of commissioners of each fire protection district, organized and existing under this act, may levy a tax upon all the taxable property within the boundaries of such district sufficient to defray the cost of equipping and maintaining the district, not exceeding sixteen hundredths percent (.16%) of market value for assessment purposes, provided, districts having a population in excess of two thousand five hundred (2,500) may levy a total tax of twenty-four hundredths percent (.24%) of market value for assessment purposes, to be used for the purposes of this act and for no other purpose. The levy shall be made by resolution entered upon the minutes of the board of commissioners of the fire protection district, and it shall be the duty of the secretary of the district, immediately after entry of the resolution in the minutes, to transmit to the county auditor, county assessor and state board of equalization certified

copies of the resolution providing for such levy. Said taxes shall be collected as provided by section 63-812, Idaho Code.

(2) If two (2) or more fire protection districts consolidate into one (1) district, the provisions of section 63-802, Idaho Code, shall apply to the consolidated district's budget request as if the former district which, in the year of the consolidation, has the higher levy subject to the limitations of section 63-802, Idaho Code, had annexed the other district or districts. In addition, the consolidated district shall receive the benefit of foregone increases accumulated by the former districts under section 63-802(1)(a), Idaho Code.

(3) Notwithstanding the provisions of section 63-802, Idaho Code, fire protection districts adversely impacted by abnormally low levies at the time of enactment of section 63-2220A, Idaho Code, and recodified as section 63-802, Idaho Code, may seek voter approval to reach a statewide fire protection district levy average as follows:

(a) If the immediate prior year's levy is less than 0.0005, fire protection districts with populations of two thousand five hundred (2,500) or less may increase the operations and maintenance portion of their budgets by an amount not to exceed the difference between 0.0005 and the actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional budget amount must be approved by sixty-six and two-thirds percent (66 2/3%) of the voters voting on the question at an election called for that purpose and held on the dates provided by section 34-106, Idaho Code. If approved by the voters, the additional budget amount may be included in each succeeding annual budget.

(b) If the immediate prior year's levy is less than 0.0012, fire districts with populations in excess of two thousand five hundred (2,500) may increase the operations and maintenance portion of their budgets by an amount not to exceed the difference between 0.0012 and the actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional budget amount must be approved by sixty-six and two-thirds percent (66 2/3%) of the voters voting on the question at an election called for that purpose and held on the dates provided by section 34-106, Idaho Code. If approved by the voters, the additional budget amount may be included in each succeeding annual budget.

The provisions of this subsection shall be null, void and of no force and effect on and after January 1, 2002.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1999.

Approved March 24, 1999.

CHAPTER 289
(H.B. No. 286)

AN ACT

RELATING TO THE PUBLIC UTILITIES COMMISSION; REPEALING SECTIONS 61-1002 AND 61-1009, IDAHO CODE; AMENDING SECTION 61-1001, IDAHO CODE, TO DELETE THE EXCEPTION FOR PAYING SALARIES AND RELATED PAY-ROLL EXPENSES FOR PUBLIC UTILITIES COMMISSIONERS; AMENDING SECTION 61-1004, IDAHO CODE, TO DELETE THE PROHIBITION OF AN APPROPRIATION FROM THE GENERAL FUND, TO ALLOW THE COMMISSIONERS SALARIES AND WAGES TO BE PAID FROM THE ASSESSMENTS ON UTILITIES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 61-1008, IDAHO CODE, TO PROVIDE THAT THE LEGISLATURE SHALL DETERMINE EXPENDITURES, TO DELETE REDUNDANT CODE REFERENCES, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Sections 61-1002 and 61-1009, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 61-1001, Idaho Code, be, and the same is hereby amended to read as follows:

61-1001. ANNUAL FEES PAYABLE TO COMMISSION BY PUBLIC UTILITIES AND MOTOR CARRIERS -- PURPOSE. Each public utility and each railroad corporation, subject to the jurisdiction of the commission, and subject to the provisions of this act, shall pay to the commission in each year, a special regulatory fee in such amount as the commission shall find and determine to be necessary, together with the amount of all other fees paid or payable to the commission by each such public utility and railroad corporation in the current calendar year, together with the fees collected by the commission from motor carriers under chapter 8, title 61, Idaho Code, to defray the amount to be expended by the commission for expenses in supervising and regulating the public utilities, railroad corporations and motor carriers subject to its jurisdiction; ~~except for salaries and related payroll expenses for the commissioners.~~

SECTION 3. That Section 61-1004, Idaho Code, be, and the same is hereby amended to read as follows:

61-1004. DUTIES OF COMMISSION -- FEES -- DETERMINATION -- MAXIMUM AND MINIMUM FEES. On or before April 15th of each year the commission shall determine the proportionate assessment that all railroad corporations, and all other public utilities subject to the jurisdiction of the commission, shall bear to the amount ~~which will not be appropriated from the general fund~~ which will be required to defray the expense of the commission for supervision and regulation of such railroad corporations and other public utilities during the ensuing fiscal year; such determination shall be based upon a consideration of the time and expense devoted to the supervision and regulation of each

such class of railroad corporations and other public utilities during the preceding calendar year, including salaries and wages of the commissioners and employees and all other necessary and lawful expenditures of the commission. Thereupon the commission shall apportion the assessment thus determined to be required of all railroad corporations and all other public utilities, to each such class thereof, respectively, in proportion to their respective gross operating revenues derived from intrastate utility business in Idaho for the preceding calendar year, except that the maximum fee payable shall not exceed:

(1) In the case of railroad corporations, one ~~per-cent~~ percent (1%) of the gross operating revenues derived from the intrastate utility business of each railroad corporation; and

(2) In the case of all other public utilities, three-tenths (3/10) of one ~~per-cent~~ percent (1%) of the gross operating revenues derived from the intrastate utility business of each such public utility.

(3) In no case shall the fee be less than fifty dollars (\$50.00).

The commission shall make such assessment of the fees so determined by orders duly made and entered on its minutes.

SECTION 4. That Section 61-1008, Idaho Code, be, and the same is hereby amended to read as follows:

61-1008. EXPENDITURE -- PUBLIC UTILITIES COMMISSION FUND -- CREATION -- APPROPRIATION -- DISPOSITION OF SURPLUS. (1) At each regular session, the legislature shall determine the amount of money that may be expended by the public utilities commission during the next ensuing fiscal year.

(2) ~~The state treasurer shall be custodian of a fund, which is hereby created, to be known as the "Public Utilities Commission Fund," into which shall be paid and deposited all funds accruing or received under any and all provisions of this act chapter, and all fees, licenses, charges, assessments, fines and penalties, including fees collected from motor carriers under the provisions of title 61, chapter 8, Idaho Code, now or hereafter payable to, collected or recovered by the commission under any other law of this state, and all funds otherwise appropriated or made available to said fund. All moneys from whatever source accruing to and received into said fund are hereby appropriated, within the limits of funds determined therefor by the legislature, for the payment of the administrative and maintenance expenses of the commission, including salaries and wages of the commissioners and employees, travel, supplies, equipment, fixed charges, refunds of fees and all other necessary expenses of the commission, not otherwise provided for. Moneys shall be paid out of the said "Public Utilities Commission Fund" by the state treasurer only upon claim vouchers prepared and approved by the commission, certified by the president of the commission to the state controller who, after audit as provided by law, shall draw his warrant against the said "Public Utilities Commission Fund" for all such claims.~~

(3) ~~Any moneys collected under this act remaining in the said "Public Utilities Commission Fund" at the end of any fiscal year, shall be retained in said fund for the use of the commission for the purposes specified in this act and chapter. Remaining funds~~

shall be credited ratably by the commission to the respective railroad corporations; and other public utilities ~~subject to the provisions of this act~~ according to the respective portions of such fees determined hereunder to be assessable against each such railroad corporation and other public utility, respectively, for the ensuing fiscal year; ~~and the~~ the respective fee assessed against each ~~of them, respectively;~~ railroad corporation and public utility for such ensuing fiscal year shall be correspondingly reduced; provided that, only moneys paid under the provisions of this act chapter by railroad corporations and other public utilities shall be considered in determining the surplus to be so credited by the commission.

Approved March 24, 1999.

CHAPTER 290
(H.B. No. 287)

AN ACT

RELATING TO HAZARDOUS WASTE MANAGEMENT; REPEALING SECTIONS 39-4417B, 39-4427B, 39-4427C AND 39-4427D, IDAHO CODE; AMENDING SECTION 39-4427A, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PROCEDURES FOR WASTES DISPOSED OF BY AN AGENCY OF THE STATE OF IDAHO AT A COMMERCIAL HAZARDOUS WASTE DISPOSAL FACILITY OR SITE AND TO PROVIDE FOR RETURNS; AMENDING SECTION 39-4428, IDAHO CODE, TO PROVIDE A CORRECT CITATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-4429, IDAHO CODE, TO PROVIDE CORRECT CITATIONS; AMENDING SECTION 39-4431, IDAHO CODE, TO PROVIDE FOR A COMMERCIAL DISPOSAL FEE TO BE REMITTED TO THE GENERAL FUND OF THE STATE; AMENDING SECTION 39-4432, IDAHO CODE, TO PROVIDE FOR REMITTANCE OF COMMERCIAL DISPOSAL FEE REVENUES; AND TO PROVIDE FOR THE TRANSFERENCE OF MONEYS IN THE HAZARDOUS WASTE MANAGEMENT ACCOUNT TO THE GENERAL FUND.

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

SECTION 1. That Sections 39-4417B, 39-4427B, 39-4427C and 39-4427D, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 39-4427A, Idaho Code, be, and the same is hereby amended to read as follows:

39-4427A. 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 PCBs in concentrations less than fifty (50) parts per million and not regulated by the toxic substances control act, as amended, 15 U.S.C. section 2601 et seq., and all other waste not defined in paragraphs (a), (b), (c) and (d) of this subsection: five dollars (\$5.00) per gate ton or fraction thereof;

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

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

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

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

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

(3) For wastes disposed of by any agency of the state of Idaho at any commercial hazardous waste disposal facility or site permitted under section 39-4409, Idaho Code, the director, pursuant to a written agreement with the director, the owner or operator of any such facility or site, may credit to the hazardous waste management account on the return required in section 39-4428, Idaho Code, and in the fee remitted, an amount equal to the actual cost charged by such owner or operator per gate ton or fraction thereof for the characterization, collection, identification, transportation, treatment, storage and disposal of wastes at such facility or site.

SECTION 3. 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. (1) 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 4. 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--39-4427E~~, 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, 39-4427E~~ 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 5. That Section 39-4431, Idaho Code, be, and the same is hereby amended to read as follows:

39-4431. COLLECTION AND ENFORCEMENT. (1) The collection and enforcement procedures available to the Idaho state tax commission provided by the Idaho income tax act, sections 63-3030A, 63-3038, 63-3039, 63-3040, 63-3042 through 63-3045A, 63-3047 through 63-3065A, 63-3068, 63-3070, 63-3071, 63-3072, 63-3073 and 63-3078, Idaho Code, as they now exist or as they may subsequently be amended, shall apply and be available to the department of health and welfare for the enforcement of the hazardous-waste-management commercial disposal fee and for the assessment and collection of any amounts due thereun-

der. Said sections shall, for the aforementioned purposes, be considered part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under this act, be described as ~~hazardous-waste-management~~ commercial disposal fee liens and proceedings.

(2) The department of health and welfare may be made a party defendant in any action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the department of health and welfare and said judgment shall be paid or satisfied out of the ~~hazardous---waste-management-fee-refund-account~~ general fund of the state.

SECTION 6. That Section 39-4432, Idaho Code, be, and the same is hereby amended to read as follows:

39-4432. DISTRIBUTION OF ~~HAZARDOUS--WASTE-MANAGEMENT~~ COMMERCIAL DISPOSAL FEE REVENUES. ~~{i}~~ 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:~~

~~(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;~~

~~(b)--The--balance-remaining-with-the-state-treasurer-after-deducting-the-amounts-in-(i)-above; shall-be-remitted periodically but no less frequently than quarterly as follows:~~

~~(1) An amount equal to ninety-five percent (95%) shall be remitted to the hazardous--waste--management--account--created--in--section 39-4417B; Idaho Code; general fund of the state; and~~

~~(2) An amount equal to 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 7. Any moneys in the Hazardous Waste Management Account which are unexpended or unencumbered on June 30, 1999, shall be paid over to the state treasurer by the Department of Health and Welfare to be remitted to the General Fund of the state.

Approved March 24, 1999.

CHAPTER 291
(H.B. No. 292)

AN ACT

RELATING TO LOCAL IMPROVEMENT DISTRICTS; AMENDING SECTION 40-1310, IDAHO CODE, TO PROVIDE THAT COMMISSIONERS OF HIGHWAY DISTRICTS MAY ACQUIRE OR PURCHASE HIGHWAYS FOR THEIR HIGHWAY SYSTEMS; AMENDING SECTION 50-1703, IDAHO CODE, TO CLARIFY THAT THE GOVERNING BODY OF ANY MUNICIPALITY SHALL HAVE CONSTRUCTION AUTHORITY OVER ANY LOCAL, COLLECTOR, ARTERIAL OR OTHER STREET AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-1705, IDAHO CODE, TO PROVIDE FOR MODIFYING A LOCAL IMPROVEMENT DISTRICT; AMENDING SECTION 50-1706, IDAHO CODE, TO PROVIDE THAT A PETITION MAY BE INITIATED BY TWO-THIRDS OF THE OWNERS OF PROPERTY SUBJECT TO ASSESSMENT AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 17, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-1706A, IDAHO CODE, TO PROVIDE AUTHORITY TO IMPOSE A FEE TO RETAIN OUTSIDE ADVISORS UPON APPROVAL OF THE PETITIONERS FOR A LOCAL IMPROVEMENT DISTRICT; AMENDING SECTION 50-1707, IDAHO CODE, TO REVISE THE CONTENT OF A STATEMENT REQUIRED IN A RESOLUTION OF INTENT TO CREATE A LOCAL IMPROVEMENT DISTRICT REGARDING COSTS AND EXPENSES OF THE IMPROVEMENTS; AMENDING SECTION 50-1709, IDAHO CODE, TO CLARIFY THAT TWO-THIRDS OF THE OWNERS OF LOTS AND LANDS SUBJECT TO ASSESSMENT ARE REQUIRED FOR FILING A PROTEST AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-1710, IDAHO CODE, TO PROVIDE THAT THE APPRAISAL METHODOLOGY MAY INCLUDE IMPROVEMENTS TO BE BUILT, TO PROVIDE THAT THE COUNCIL MAY PURCHASE, ACQUIRE OR CONSTRUCT IMPROVEMENTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 17, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-1772, IDAHO CODE, TO PROVIDE COMMERCIALY REASONABLE CREDIT ASSURANCES; AND AMENDING SECTION 67-8209, IDAHO CODE, TO PROVIDE THAT DEVELOPMENT IMPACT FEE CREDIT SHALL BE GIVEN FOR IMPROVEMENTS BUILT AND PAID FOR PURSUANT TO A LOCAL IMPROVEMENT DISTRICT.

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

SECTION 1. That Section 40-1310, Idaho Code, be, and the same is hereby amended to read as follows:

40-1310. POWERS AND DUTIES OF HIGHWAY DISTRICT COMMISSIONERS. (1) The commissioners of a highway district have, except as provided in section 40-1323, Idaho Code, exclusive general supervision and jurisdiction over all highways within their highway system, with full power to construct, maintain, repair, acquire, purchase and improve all

highways within their highway system, whether directly or by their own agents and employees or by contract. Except as otherwise provided in this chapter in respect to the highways within their highway system, a highway district shall have all of the powers and duties that would by law be vested in the commissioners of the county and in the district directors of highways if the highway district had not been organized. Where any highway within the limits of the highway district has been designated as a state highway, then the board shall have exclusive supervision, jurisdiction and control over the designation, location, maintenance, repair and reconstruction of it. The highway district shall have power to manage and conduct the business and affairs of the district; establish and post speed and other regulatory signs; make and execute all necessary contracts; have an office and employ and appoint agents, attorneys, officers and employees as may be required, and prescribe their duties and fix their compensation. Highway district commissioners and their agents and employees have the right to enter upon any lands to make a survey, and may locate the necessary works on the line of any highways on any land which may be deemed best for the location.

(2) The highway district shall also have the right to acquire either by purchase, or other legal means, all lands and other property necessary for the construction, use, maintenance, repair and improvement of highways in their system. The highway district may change the width or location, or straighten lines of any highway in their system, and if in the constructing, laying out, widening, changing, or straightening of any highways, it shall become necessary to take private property, the district director of highways, with the consent and on order of the highway district commissioners, shall cause a survey of the proposed highway to be made, together with an accurate description of the lands required. He shall endeavor to agree with each owner of property, resident of the county in which the district is situated, for the purchase of a right-of-way over the lands included within the description. If the director is able to agree with the owner of the lands, the highway district commissioners may purchase the land and pay for it out of the funds of the highway district, and the lands purchased shall then be conveyed to the highway district for the use and purpose of highways.

(3) Whenever the director of highways shall be unable to agree with any person for the purchase of land, or that person shall be unknown or a nonresident of the county in which the highway district is situated, or a minor, or an insane or incompetent person, the director shall have the right, subject to the order of the highway district commissioners, to begin action in the name of the highway district in the district court of the county in which the district is situated, to condemn the land necessary for the right-of-way for the highway, under the provisions of chapter 7, title 7, Idaho Code. An order of the highway district commissioners entered upon its minutes that the land sought to be condemned is necessary for a public highway and public use shall be prima facie evidence of the fact.

(4) The highway district has the power to contract for and pay out any special rewards and bounties as may appear expedient or useful in securing proper highway construction and maintenance, and to accept, on behalf of the district, aid or contributions in the con-

struction or maintenance of any highway; to construct or repair, with the consent of the corporate authorities of any city within the district, any highway within a city, upon the division of the cost as may be agreed upon; or to join with the state or any body politic or political subdivision, or with any person in the construction or repair of any highway and to contract for an equitable division of the cost; and all counties, cities, highway districts and other bodies politic and political subdivisions are authorized to contract with any highway district acting through its highway district commissioners in exercise of the powers granted.

(5) The highway district has the power to receive highway petitions and lay out, alter, create and abandon and vacate public highways and public rights-of-way within their respective districts under the provisions of sections 40-202, 40-203 and 40-203A, Idaho Code. Provided however, when a public highway, public street and/or public right-of-way is part of a platted subdivision which lies within an established county/city impact area or within one (1) mile of a city if a county/city impact area has not been established, consent of the city council of the affected city, when the city has a functioning street department with jurisdiction over the city streets, shall be necessary prior to the granting of acceptance or vacation of said public street or public right-of-way by the highway district board of commissioners.

(6) The highway district is empowered to take conveyance or other assurances, in the name of the highway district, for all property acquired by it under the provisions of this chapter for the purposes of this title. The highway district may institute and maintain any and all actions and proceedings, suits at law and in equity, necessary or proper in order to carry out the provisions of this chapter, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities provided in this chapter. In all courts, actions, suits or proceedings, the highway district may sue, appear and defend, in person or by attorneys, and in the name of the highway district.

(7) The highway district is empowered to hold, use, acquire, sell, manage, occupy and possess property. The highway district may create highway divisions, which must be carefully and distinctly defined and described. Highway divisions may be altered, changed, created or modified by the highway district commissioners, as the need requires.

(8) The highway district board of commissioners shall have the exclusive general supervisory authority over all public highways, public streets and public rights-of-way under their jurisdiction, with full power to establish design standards, establish use standards, establish regulations in accordance with the provisions of title 49, Idaho Code, and control access to said public highways, public streets and public rights-of-way.

(9) By July 1, 2000, and every five (5) years thereafter, the highway district board of commissioners shall have published in map form and made readily available the location of all public rights-of-way under its jurisdiction. Any highway district board of commissioners may be granted an extension of time with the approval of the legislature by adoption of a concurrent resolution.

SECTION 2. That Section 50-1703, Idaho Code, be, and the same is hereby amended to read as follows:

50-1703. POWERS CONFERRED. (a) The governing body of any municipality shall have power to make or cause to be made any one (1) or more or combination of the following improvements:

(1) To establish grades and lay out, establish, open, extend and widen any local, collector, arterial or other street, sidewalk, alley or off-street parking facility;

(2) To purchase, acquire, construct, improve, repair, light, grade, pave, repave, surface, resurface, curb, gutter, sewer, drain, landscape and beautify any street, sidewalk or alley;

(3) To purchase, construct, reconstruct, extend, maintain or repair bridges, sidewalks, crosswalks, driveways, culverts, sanitary sewers, storm sewers, ditches, drains, conduits, flood barriers and channels for sanitary and drainage purposes, or either or both thereof, with inlets or outlets, manholes, catch basins, flush tanks, treatment systems and all other sewer and drainage appurtenances necessary for the comfort, convenience, health and well-being of the inhabitants of the municipality; provided, that any improvements for sanitary sewer facilities shall be constructed so as to conform with the general regulations rules of the Idaho department of health and welfare;

(4) To construct, reconstruct, extend, maintain, or repair lines, facilities and equipment (other than generating equipment) for street lighting purposes or for the expansion or improvement of a previously established municipally-owned electrical distribution system, to a district within the boundaries of the municipality;

(5) To plant, or cause to be planted, set out, cultivate and maintain lawns, shade trees or other landscaping;

(6) To cover, fence, safeguard or enclose reservoirs, canals, ditches and watercourses and to construct, reconstruct, extend, line or reline, maintain and repair waterworks, reservoirs, canals, ditches, pipes, mains, hydrants, and other water facilities for the purpose of supplying water for domestic, irrigation and fire protection purposes, or any of them; regulating, controlling or distributing the same and regulating and controlling water and watercourses leading into the municipality;

(7) To acquire, construct, reconstruct, extend, maintain or repair parking lots or other facilities for the parking of vehicles on or off streets;

(8) To acquire, construct, reconstruct, extend, maintain or repair parks and other recreational facilities;

(9) To remove any nonconforming existing facility or structure in the areas to be improved;

(10) To construct, reconstruct, extend, maintain or repair optional improvements;

(11) To acquire by purchase, gift, condemnation, or otherwise any real or personal property within the limits of the municipality as in the judgment of the council may be necessary or convenient in order to make any of such improvements or otherwise to carry out the purposes of this chapter;

(12) To make any other improvements now or hereafter authorized by

any other law, the cost of which in whole or in part can properly be determined to be of particular benefit to a particular area within the municipality;

(13) To construct and install all such structures, equipment and other items and to do all such other work and to incur any such costs and expenses as may be necessary or appropriate to complete any of such improvements in a proper manner;

(14) To purchase, build, construct, reconstruct or otherwise improve parking facilities and all other appurtenances necessary to provide adequate off-street parking, and to that end may acquire real or personal property by purchase, gift, condemnation or otherwise, and may own, possess and maintain such real or personal property within the limits of the municipality as in the judgment of the council may be necessary and convenient for such purposes; and

(15) To acquire, purchase, build, construct or reconstruct irrigation systems, install underground tiling and cover open irrigation ditches.

(b) For the purpose of making and paying for all or a part of the cost of any of such improvements (including optional improvements), the governing body of a municipality may create local improvement districts within the municipality, levy assessments on the property within such a district which is benefited by the making of the improvements and issue interim or registered warrants and local improvement bonds as provided in this chapter.

SECTION 3. That Section 50-1705, Idaho Code, be, and the same is hereby amended to read as follows:

50-1705. ENLARGED MODIFIED DISTRICT. Whenever any local improvement shall be of such nature and character that the special benefits resulting therefrom extend beyond the boundaries of the property abutting the improvement or whenever the special benefits do not accrue to some or all properties abutting the improvements, but to other properties, the council may create an enlarged a modified local improvement district, which shall include as near as may be determined all the property especially benefited by such improvements. Provided however, that by unanimous agreement of the property owners to be assessed, properties may be included or excluded from the local improvement district regardless of whether they are specially benefited by the improvements. When such district is created, all property therein shall be assessed for a portion of the cost and expenses of such improvements, ~~in accordance with the special benefits to such property~~, to be determined and fixed by the council when the district is created.

SECTION 4. That Section 50-1706, Idaho Code, be, and the same is hereby amended to read as follows:

50-1706. INITIATION OF ORGANIZATION OF DISTRICT. The organization of any local improvement district herein provided for may be initiated upon a petition signed by not less than sixty per-cent percent (60%) of the resident owners or two-thirds (2/3) of the owners of property

subject to assessment within such proposed improvement district, or by resolution of the council adopted by an affirmative vote of a majority of the members of the full council at a regular or special meeting thereof. The terms of a petition shall include a description of the boundaries of a proposed district, the improvements to be made and the property to be assessed.

SECTION 5. That Chapter 17, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-1706A, Idaho Code, and to read as follows:

50-1706A. FEES. In the case of any local improvement district initiated by petition, the petitioners may authorize the council to charge the petitioners a reasonable fee for the council to retain outside advisors to assist the council in assessing the proposed local improvement district. The council may not charge the petitioners any fee for review of a proposed local improvement district unless the petitioners authorize the fee.

SECTION 6. That Section 50-1707, Idaho Code, be, and the same is hereby amended to read as follows:

50-1707. RESOLUTION OF INTENTION TO CREATE DISTRICT. Upon the filing of a petition or upon initiation of a district by council action, the council shall at a regular or special meeting adopt a resolution giving notice of its intention to create the district, to make the improvements and to levy assessments to pay all or a part thereof. The notice shall contain:

(a) A description of the boundaries of the district to be created and the property to be assessed, sufficient to inform the owners thereof that their property is to be assessed.

(b) A general description of the improvements contemplated together with an estimate of the total cost and expenses of the same and a statement of the percentage or other calculation of the total cost and expenses of the improvements which will be paid from a levy of assessments on property benefited and the percentage or calculation of the total costs and expenses which will be paid from the general funds of the municipality or from such other source specified in the notice.

(c) A statement that the costs and expenses of the improvements will be assessed against the ~~abutting, adjoining and adjacent lots and lands along or upon which such improvements are to be made and upon~~ lots and lands specially benefited by such improvements, except as provided in section 50-1705, Idaho Code, and included in the district to be created according to a front foot method, or a square foot method, or a combination thereof, or in proportion to the benefits derived to such property by said improvements, or by another method agreed to by all property owners to be assessed, and the council shall state the method so determined in said notice.

(d) A statement that the district is to be ~~an-entarged~~ a modified district within the meaning of this act, if the same is true, and the boundaries of such entarged modified district shall be given.

(e) A statement of the time within which and the place at which protests shall be filed and of the time and place at which the council will conduct a public hearing to consider such protests.

SECTION 7. That Section 50-1709, Idaho Code, be, and the same is hereby amended to read as follows:

50-1709. PROTESTS AND HEARING. Any owner of property to be assessed in the proposed local improvement district described in the notice of intention shall have the right, in advance of the hearing, to file in writing a protest to the creation of the district or making any other objections in relation thereto. At the date, time and place specified in the notice of intention the council shall in open and public session consider all protests which have been filed in writing in advance of the hearing, and the hearing may be adjourned from time to time to a fixed future time and place for the same until all such protests have been heard. The decision of the council as to all protests shall be conclusive and final, and if it should so determine, the council may delete any improvements or any property which had originally been contemplated in the said notice. If owners of more than two-thirds (2/3) of the property to be assessed protest any of the proposed improvements which affect their property, the council shall not proceed further with the work so protested unless a majority of the members of the full council shall vote to proceed with such work. The vote on the hereinafter mentioned ordinance creating the improvement district shall constitute the vote as to whether or not the council will proceed. Any property owner who fails to file a protest within the time specified, or having filed one withdraws said protest, shall be deemed to have waived any objection to the creation of the district, the making of the improvements, and the inclusion of his property in the district. Such waiver shall not preclude his right to object to the amount of the assessment at the later hearing provided for such purpose.

In cases where the creation of a local improvement district has been proposed by the governing board of an entity other than a city council or board of county commissioners, and where written protests are filed and sixty per-cent percent (60%) of the resident owners or the owners of two-thirds (2/3) of the ~~abutting, adjoining, contiguous and adjacent~~ lots and lands subject to assessment within such proposed improvement district have signed such protest, the governing board of the governmental entity proposing the local improvement district shall not be allowed to proceed with the creation of the district for a period of one hundred eighty (180) days. During this one hundred eighty (180) day period, the city council shall act as a review board for as much of the proposed district as is situated within the boundaries of the city, and the board of county commissioners shall act as a review board for that portion of the ~~proposat~~ proposed local improvement district as is situated within the unincorporated portion of the county. As a review board, the city council or board of county commissioners shall review the record of the proposal, including conformance with procedural provisions of law. The city council or board of county commissioners shall also evaluate the necessity or desirability of the proposed district, and shall take into consideration

the creation of the proposed local improvement district as it relates to the following:

(a) the health, safety and welfare of the residents of the proposed district, or of persons having the necessity to travel through the district; and

(b) the financial impact of the creation and implementation of the objectives of the proposed district upon the property owners within the proposed district, especially in light of projects recently undertaken or contemplated for the near future within the district.

After its evaluation, the city council shall approve, modify or reject the proposal for the creation of a local improvement district for as much of the proposed district as is situated within the boundaries of the city, and the board of county commissioners shall approve, modify or reject the proposal for the creation of a local improvement district for as much of the proposed district as is situated within the unincorporated portion of the county.

SECTION 8. That Section 50-1710, Idaho Code, be, and the same is hereby amended to read as follows:

50-1710. ORDINANCE CREATING IMPROVEMENT DISTRICT AND PROCEDURE FOR CONSTRUCTION BIDS. If, after the hearing on the creation of the district, the council finds (a) that the district will be for the best interest of the property affected and the municipality, (b) that there is reasonable probability that the obligations of such district will be paid, and (c) the value of the property within the proposed district, including the proposed improvements, is sufficient, it shall then enact an ordinance providing for such improvements and creating a local improvement district to be called "Local Improvement District No. for, Idaho," which shall include all of the property within said district in accordance with the findings of the council, and said ordinance shall set forth the boundaries of the district, provide the improvements which shall be made, and state that the total cost and expenses thereof shall be assessed according to the percentage or calculation hereinbefore mentioned on all benefited property in the district by using the method of assessment contemplated in the notice of intention subject to any variation therefrom as a result of the council's determining that the benefits to be derived by certain lots or parcels of property warrant such variations. The council may either purchase, acquire or construct the improvements. The council shall appoint an engineer, and if the council elects to construct the improvements, the engineer shall have prepared the necessary plans and specifications for the construction work ordered.

Except as hereinafter otherwise provided, the council shall authorize the advertisement for bids therefor by giving notice calling for sealed bids for the construction of the work. Notice of advertisement for bids shall be published in the official newspaper of the municipality in three (3) consecutive weekly issues, which notice shall (a) contain a general description of the kind and amount of work to be done, (b) state that the plans and specifications for said work are on file in the office of the engineer or clerk for inspection and (c) state the date, hour and place of the bid opening.

Each bidder shall accompany his bid with bidder's security as provided in section 50-341, Idaho Code, in the amount of five per-cent percent (5%) of his bid. In case the contract for any such work is offered to such bidder and he fails or refuses to enter into the contract, then such security shall be forfeited to the municipality and placed in the local improvement fund of such district. These provisions also shall appear in said notice.

Award shall be made to the lowest responsible bidder fulfilling the requirements.

Any acquisition, purchase or construction contract made by a municipality for any improvements authorized by this code shall be made by the council in the name of the municipality upon such terms of payment as shall be fixed by the council. The contract shall be authorized by resolution empowering the authorized officer of the municipality to execute the contract. The resolution need not set out the contract in full but it shall be sufficient if the resolution refers to a copy of the contract on file in the office of the clerk where it is available for public inspection.

Any provision in this local improvement district code notwithstanding, if any municipality shall elect to exercise the powers herein granted jointly with any other public agency or agencies as authorized by the provisions of section 67-2328, Idaho Code, the improvements as contemplated within the local improvement district may be constructed jointly and as part of a larger project with such other agency or agencies upon the letting of a single contract after compliance with the required bidding procedure for any Idaho public agency jointly participating in the work.

SECTION 9. That Chapter 17, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-1772, Idaho Code, and to read as follows:

50-1772. COMMERCIALLY REASONABLE CREDIT ASSURANCES. If requested by the petitioners for a local improvement district, and in addition to or in lieu of a reserve or guarantee requirement, the council or other governing body of a governmental entity may impose such commercially reasonable credit assurances as it may deem necessary as a condition of approving a local improvement district. If commercially reasonable, such assurances may include guarantees, letters of credit or bonds in amounts up to the total amount of indebtedness.

SECTION 10. That Section 67-8209, Idaho Code, be, and the same is hereby amended to read as follows:

67-8209. CREDITS. (1) In the calculation of development impact fees for a particular project, credit or reimbursement shall be given for the present value of any construction of system improvements or contribution or dedication of land or money required by a governmental entity from a developer for system improvements of the category for which the development impact fee is being collected, including such system improvements paid for pursuant to a local improvement district. Credit or reimbursement shall not be given for project improvements.

(2) If a developer is required to construct, fund or contribute system improvements in excess of the development project's proportionate share of system improvement costs, including such system improvements paid for pursuant to a local improvement district, the developer shall receive a credit on future impact fees or be reimbursed at the developer's choice for such excess construction, funding or contribution from development impact fees paid by future development which impacts the system improvements constructed, funded or contributed by the developer(s) or fee payer.

(3) If credit or reimbursement is due to the developer pursuant to this section, the governmental entity shall enter into a written agreement with the fee payer, negotiated in good faith, prior to the construction, funding or contribution. The agreement shall provide for the amount of credit or the amount, time and form of reimbursement.

Approved March 24, 1999.

CHAPTER 292
(H.B. No. 296)

AN ACT

RELATING TO THE LOCAL LAND USE PLANNING ACT; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6538, IDAHO CODE, TO PROHIBIT A CITY OR COUNTY FROM ENACTING ANY ORDINANCE OR RESOLUTION DEPRIVING AN OWNER OF THE RIGHT TO USE IMPROVEMENTS ON PRIVATE PROPERTY FOR THEIR DESIGNED PURPOSE BASED SOLELY ON THE NONUSE OF THE IMPROVEMENTS, TO PROVIDE FOR A DECLARATION OF INTENTION WITH RESPECT TO THE CONTINUED NONUSE OF THE IMPROVEMENTS FOR A PERIOD IN EXCESS OF ONE YEAR, TO PROVIDE REQUIREMENTS FOR THE CONTINUED NONUSE OF THE PROPERTY, TO PROVIDE FOR A VOLUNTARY WITHDRAWAL OF THE USE, TO PROVIDE FOR ABANDONMENT OF THE GRANDFATHER RIGHT TO THE USE IF THE PROPERTY IS REDESIGNED FOR A DIFFERENT USE, TO PROVIDE A DEFINITION AND TO PROVIDE THAT THE PROVISIONS OF THE SECTION SHALL NOT BE CONSTRUED TO PROHIBIT A CITY OR COUNTY FROM PASSING OR ENFORCING OTHER LAWS OR ORDINANCES FOR THE PROTECTION OF THE PUBLIC HEALTH, SAFETY OR WELFARE.

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

SECTION 1. That Chapter 65, 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 67-6538, Idaho Code, and to read as follows:

67-6538. USE FOR DESIGNED PURPOSE PROTECTED -- WHEN VACANCY OCCURS. (1) No rights or authority granted pursuant to this chapter shall be construed to empower a city or county to enact any ordinance or resolution which deprives an owner of the right to use improvements on private property for their designed purpose based solely on the nonuse of the improvements for their designed purpose for a period of ten (10) years or less. Where an owner or his authorized agent per-

mits or allows an approved or unlawful intervening use of the owner's property, the provisions of this section are not applicable.

(2) If the nonuse continues for a period of one (1) year or longer, the city or county may, by written request, require that the owner declare his intention with respect to the continued nonuse of the improvements in writing within twenty-eight (28) days of receipt of the request. If the owner elects to continue the nonuse, he shall notify the city or county in writing of his intention and shall post the property with notice of his intent to continue the nonuse of the improvements. He shall also publish notice of his intent to continue the nonuse in a newspaper of general circulation in the county where the property is located. If the property owner complies with the requirements of this subsection, his right to use such improvements in the future for their designed purpose shall continue, notwithstanding any change in the zoning of the property.

(3) The property owner may voluntarily elect to withdraw the use by filing with the clerk of the city or the county, as the case may be, an affidavit of withdrawn use. If the property is redesigned for a different use, the property owner shall be deemed to have abandoned any grandfather right to the prior use of the property.

(4) For purposes of this section "designed purpose" means the use for which the improvements were originally intended, designed and approved pursuant to any applicable planning and zoning ordinances.

(5) The provisions of this section shall not be construed to prohibit a city or a county from passing or enforcing any other law or ordinance for the protection of the public health, safety and welfare.

Approved March 24, 1999.

CHAPTER 293
(H.B. No. 299, As Amended)

AN ACT

RELATING TO DECISIONS BY GUARDIANS TO WITHDRAW OR WITHHOLD MEDICAL TREATMENT; AMENDING SECTION 66-402, IDAHO CODE, TO DEFINE "ARTIFICIAL LIFE-SUSTAINING PROCEDURES" AND "PROTECTION AND ADVOCACY SYSTEM"; AMENDING SECTION 66-405, IDAHO CODE, TO PROVIDE WHEN A GUARDIAN MAY NOT REFUSE OR WITHHOLD CONSENT FOR MEDICALLY NECESSARY TREATMENT, TO PROVIDE WHEN A GUARDIAN MAY CONSENT TO WITHHOLDING OR WITHDRAWAL OF ARTIFICIAL LIFE-SUSTAINING PROCEDURES, TO PROVIDE REQUIREMENTS OF PERSONS WHO HAVE INFORMATION THAT MEDICALLY NECESSARY TREATMENT OF A PERSON WITH A DEVELOPMENTAL DISABILITY HAS BEEN WITHHELD OR WITHDRAWN, AND TO PROVIDE DUTIES OF ADULT PROTECTIVE SERVICES AND THE PROTECTION AND ADVOCACY SYSTEM; AMENDING SECTION 15-5-101, IDAHO CODE, TO PROVIDE A CORRECT CITATION; AMENDING SECTION 18-211, IDAHO CODE, AS AMENDED BY SECTION 7, CHAPTER 90, LAWS OF 1998, TO PROVIDE CORRECT CITATIONS; AMENDING SECTION 18-212, IDAHO CODE, TO PROVIDE A CORRECT CITATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING 63-3022E, IDAHO CODE, TO PROVIDE CORRECT CITATIONS; AND AMENDING SECTION 63-3025D, IDAHO CODE, TO PROVIDE CORRECT CITATIONS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 66-402, Idaho Code, be, and the same is hereby amended to read as follows:

66-402. DEFINITIONS. As used in this chapter:

(1) "Adult" means an individual eighteen (18) years of age or older.

(2) "Artificial life-sustaining procedures" means any medical procedure or intervention which utilizes mechanical means to sustain or supplant a vital function. Artificial life-sustaining procedures shall not include the administration of medication, and it shall not include the performance of any medical procedure deemed necessary to alleviate pain, or any procedure which could be expected to result in the recovery or long-term survival of the patient and his restoration to consciousness.

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

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

(45) "Developmental disability" means a chronic disability of a person which appears before the age of twenty-two (22) years of age and:

(a) Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and

(b) Results in substantial functional limitations in three (3) or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and

(c) Reflects the need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated.

(56) "Emancipated minor" means an individual between fourteen (14) and eighteen (18) years of age who has been married or whose circumstances indicate that the parent-child relationship has been renounced.

(67) "Evaluation committee" means an interdisciplinary team of at least three (3) individuals designated by the director or his designee to evaluate an individual as required by the provisions of this chapter. Each committee must include a physician licensed to practice medicine in the state of Idaho, a licensed social worker, with field training or experience in working with partially disabled or disabled persons, and a clinical psychologist.

(78) "Facility" means the Idaho state school and hospital, a skilled nursing facility, an intermediate care facility, an intermediate care facility for the mentally retarded, a licensed residential care home, a group foster home, other organizations licensed to provide twenty-four (24) hour care, treatment and training to the devel-

opmentally disabled, a mental health center, or an adult and child development center.

(89) "Lacks capacity to make informed decisions" means the inability, by reason of developmental disability, to achieve a rudimentary understanding of the purpose, nature, and possible risks and benefits of a decision, after conscientious efforts at explanation, but shall not be evidenced by improvident decisions within the discretion allowed nondevelopmentally disabled individuals.

(910) "Likely to injure himself or others" means:

- (a) A substantial risk that physical harm will be inflicted by the respondent upon his own person as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or
- (b) A substantial risk that physical harm will be inflicted by the respondent upon another as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or
- (c) That the respondent is unable to meet essential requirements for physical health or safety.

(101) "Manage financial resources" means the actions necessary to obtain, administer and dispose of real, personal, intangible or business property, benefits and/or income.

(112) "Meet essential requirements for physical health or safety" means the actions necessary to provide health care, food, clothing, shelter, personal hygiene and/or other care without which serious physical injury or illness would occur.

(123) "Minor" means an individual seventeen (17) years of age or less.

(14) "Protection and advocacy system" means the agency designated by the governor of the state of Idaho to provide advocacy services for people with disabilities pursuant to 42 USC section 6042.

(135) "Respondent" means the individual subject to judicial proceedings authorized by the provisions of this chapter.

SECTION 2. That Section 66-405, Idaho Code, be, and the same is hereby amended to read as follows:

66-405. ORDER IN PROTECTIVE PROCEEDINGS. (1) If it is determined that the respondent is not developmentally disabled but appears in need of protective services, the court may cause the proceeding to be expanded or altered for consideration under the uniform probate code.

(2) If it is determined that the respondent is able to manage financial resources and meet essential requirements for physical health or safety, the court shall dismiss the petition.

(3) If it is determined that the respondent is developmentally disabled and is unable to manage some financial resources or meet some essential requirements for physical health or safety, the court may appoint a partial guardian and/or partial conservator on behalf of the respondent. An order establishing partial guardianship or partial conservatorship shall define the powers and duties of the partial guardian or partial conservator so as to permit the respondent to meet essential requirements for physical health or safety and to manage financial resources commensurate with his ability to do so, and shall specify all legal restrictions to which he is subject. A person for

whom a partial guardianship or partial conservatorship has been appointed under this chapter retains all legal and civil rights except those which have by court order been limited or which have been specifically granted to the partial guardian or partial conservator by the court.

(4) If it is determined that the respondent is developmentally disabled and is unable to manage financial resources or meet essential requirements for physical health or safety even with the appointment of a partial guardian or partial conservator, the court may appoint a total guardian and/or total conservator.

(5) In the event that more than one (1) person seeks to be appointed guardian and/or conservator, the court shall appoint the person or persons most capable of serving on behalf of the respondent; the court shall not customarily or ordinarily appoint the department or any other organization or individual, public or private, that is or is likely to be providing services to the respondent.

(6) Subject to the limitations of the provisions of subsection (7) of this section, guardians or conservators may have any of the duties and powers as provided in sections 15-5-312(a)(1) through (4), 15-5-424 and 15-5-425, Idaho Code, and as specified in the order. Any order appointing a partial or total guardian or partial or total conservator under the provisions of this section must require a report to the court at least annually. In addition to such other requirements imposed by law or order, the report shall include:

- (a) A description of the respondent's current mental, physical and social condition;
- (b) The respondent's present address and living arrangement;
- (c) A description of any significant changes in the capacity of the respondent to meet essential requirements for physical health or safety or to manage financial resources;
- (d) A description of services being provided the respondent;
- (e) A description of significant actions taken by the guardian or conservator during the reporting period;
- (f) Any significant problems relating to the guardianship or conservatorship;
- (g) A complete financial statement of the financial resources under the control or supervision of the guardian or conservator; and
- (h) A description of the need for continued guardianship or conservatorship services.

(7) No guardian appointed under this chapter shall have the authority to refuse or withhold consent for medically necessary treatment when the effect of withholding such treatment would seriously endanger the life or health and well-being of the person with a developmental disability. To withhold or attempt to withhold such treatment shall constitute neglect of the person and be cause for removal of the guardian. No physician or caregiver shall withhold or withdraw such treatment for a respondent whose condition is not terminal or whose death is not imminent. If the physician or caregiver cannot obtain valid consent for medically necessary treatment from the guardian, he shall provide the medically necessary treatment as authorized by section 39-4303(c), Idaho Code.

(8) A guardian appointed under this chapter may consent to with-

holding or withdrawal of artificial life-sustaining procedures, only if the respondent:

(a) Has an incurable injury, disease, illness or condition, certified by the respondent's attending physician and at least one (1) other physician to be terminal such that the application of artificial life-sustaining procedures would not result in the possibility of saving or significantly prolonging the life of the respondent, and would only serve to prolong the moment of the respondent's death for a period of hours, days or weeks, and where both physicians certify that death is imminent, whether or not the life-sustaining procedures are used; or

(b) Has been diagnosed by the respondent's attending physician and at least one (1) other physician as being in a persistent vegetative state which is irreversible and from which the respondent will never regain consciousness.

(9) Any person, who has information that medically necessary treatment of a respondent has been withheld or withdrawn, may report such information to adult protective services or to the Idaho protection and advocacy system for people with developmental disabilities, who shall have the authority to investigate the report and in appropriate cases to seek a court order to ensure that medically necessary treatment is provided.

If adult protective services or the protection and advocacy system determines that withholding of medical treatment violates the provisions of this section, they may petition the court for an ex parte order to provide or continue the medical treatment in question. If the court finds, based on affidavits or other evidence, that there is probable cause to believe that the withholding of medical treatment in a particular case violates the provisions of this section, and that the life or health of the patient is endangered thereby, the court shall issue an ex parte order to continue or to provide the treatment until such time as the court can hear evidence from the parties involved. Petitions for court orders under this section shall be expedited by the courts and heard as soon as possible. No bond shall be required of a petitioner under this section.

(10) No partial or total guardian or partial or total conservator appointed under the provisions of this section may without specific approval of the court in a proceeding separate from that in which such guardian or conservator was appointed:

(a) Consent to medical or surgical treatment the effect of which permanently prohibits the conception of children by the respondent unless the treatment or procedures are necessary to protect the physical health of the respondent and would be prescribed for a person who is not developmentally disabled;

(b) ~~Withhold consent to life-saving treatment or procedures;~~

(c) Consent to experimental surgery, procedures or medications;
or

(d) Delegate the powers granted by the order.

SECTION 3. That Section 15-5-101, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-101. DEFINITIONS AND USE OF TERMS. Unless otherwise apparent

from the context, in this code:

(a) "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause (except minority) to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person, provided, that the term shall not refer to a developmentally disabled person as defined in section 66-402(4~~5~~), Idaho Code, and provided further that:

(1) "Incapacity" means a legal, not a medical disability and shall be measured by function limitations and it shall be construed to mean or refer to any person who has suffered, is suffering, or is likely to suffer, substantial harm due to an inability to provide for his personal needs for food, clothing, shelter, health care, or safety, or an inability to manage his or her property or financial affairs;

(2) Inability to provide for personal needs or to manage property shall be evidenced by acts or occurrences, or statements which strongly indicate imminent acts or occurrences; material evidence of inability must have occurred within twelve (12) months prior to the filing of the petition for guardianship or conservatorship;

(3) Isolated instances of simple negligence or improvidence, lack of resources, or any act, occurrence, or statement, if that act, occurrence, or statement is the product of an informed judgment, shall not constitute evidence of inability to provide for personal needs or to manage property;

(4) "Informed judgment" means a choice made by a person who has the ability to make such a choice, and who makes it voluntarily after all relevant information necessary to making the decision has been provided, and who understands that he is free to choose or refuse any alternative available and who clearly indicates or expresses the outcome of his choice;

(b) A "protective proceeding" is a proceeding under the provisions of section 15-5-401 of this code to determine that a person cannot effectively manage or apply his estate to necessary ends, either because he lacks the ability or is otherwise inconvenienced, or because he is a minor, and to secure administration of his estate by a conservator or other appropriate relief;

(c) A "protected person" is a minor or other person for whom a conservator has been appointed or other protective order has been made;

(d) A "ward" is a person for whom a guardian has been appointed. A "minor ward" is a minor for whom a guardian has been appointed solely because of minority.

SECTION 4. That Section 18-211, Idaho Code, as amended by Section 7, Chapter 90, Laws of 1998, be, and the same is hereby amended to read as follows:

18-211. EXAMINATION OF DEFENDANT -- APPOINTMENT OF PSYCHIATRISTS AND LICENSED PSYCHOLOGISTS -- HOSPITALIZATION -- REPORT. (1) Whenever there is reason to doubt the defendant's fitness to proceed as set forth in section 18-210, Idaho Code, the court shall appoint at least

one (1) qualified psychiatrist or licensed psychologist or shall request the director of the department of health and welfare to designate at least one (1) qualified psychiatrist or licensed psychologist to examine and report upon the mental condition of the defendant to assist counsel with defense or understand the proceedings. The costs of examination shall be paid by the defendant if he is financially able. The determination of ability to pay shall be made in accordance with chapter 8, title 19, Idaho Code.

(2) Within three (3) days, excluding Saturdays, Sundays and legal holidays, of the appointment or designation, the examiner shall determine the best location for the examination. If practical, the examination shall be conducted locally on an outpatient basis.

(3) If the examiner determines that confinement is necessary for purposes of the examination, the court may order the defendant to be confined to a jail, a hospital, or other suitable facility for that purpose for a period not exceeding thirty (30) days. The order of confinement shall require the county sheriff to transport the defendant to and from the facility and shall notify the facility of any known medical, behavioral, or security requirements of the defendant. The court, upon request, may make available to the examiner any court records relating to the defendant.

(4) In such examination any method may be employed which is accepted by the examiner's profession for the examination of those alleged not to be competent to assist counsel in their defense.

(5) Upon completion of the examination a report shall be submitted to the court and shall include the following:

(a) a description of the nature of the examination;

(b) a diagnosis or evaluation of the mental condition of the defendant;

(c) an opinion as to the defendant's capacity to understand the proceedings against him and to assist in his own defense.

(6) If the examination cannot be conducted by reason of the unwillingness of the defendant to participate therein, the report shall so state and shall include, if possible, an opinion as to whether such unwillingness of the defendant was the result of mental disease or defect.

(7) The report of the examination shall be filed in triplicate with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant.

(8) When the defendant wishes to be examined by an expert of his own choice, such examiner shall be permitted to have reasonable access to the defendant for the purpose of examination.

(9) In addition to the psychiatrist or licensed psychologist, the court may appoint additional experts to examine the defendant. In the event a defendant is suspected of being developmentally disabled, the examination shall proceed with those experts set out in subsection (67) of section 66-402, Idaho Code.

(10) If the defendant lacks capacity to make informed decisions about treatment, as defined in section 66-317, Idaho Code, the court may authorize consent to be given pursuant to section 66-322, Idaho Code. If the defendant lacks capacity to make informed decisions as defined in subsection (89) of section 66-402, Idaho Code, the court may authorize consent to be given pursuant to sections 66-404 and

66-405, Idaho Code.

(11) If the defendant was confined solely for the purpose of examination, he shall be released from the facility within three (3) days, excluding Saturdays, Sundays and legal holidays following notification of completion of the examination.

SECTION 5. That Section 18-212, Idaho Code, be, and the same is hereby amended to read as follows:

18-212. DETERMINATION OF FITNESS OF DEFENDANT TO PROCEED -- SUSPENSION OF PROCEEDING AND COMMITMENT OF DEFENDANT -- POSTCOMMITMENT HEARING. (1) When the defendant's fitness to proceed is drawn in question, the issue shall be determined by the court. If neither the prosecuting attorney nor counsel for the defendant contests the finding of the report filed pursuant to section 18-211, Idaho Code, the court may make the determination on the basis of such report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon such hearing, the party who contests the finding thereof shall have the right to summon and to cross-examine the psychiatrist or licensed psychologist who submitted the report and to offer evidence upon the issue.

(2) If the court determines that the defendant lacks fitness to proceed, the proceeding against him shall be suspended, except as provided in subsections (4) and (5) of this section, and the court shall commit him to the custody of the director of the department of health and welfare for care and treatment at an appropriate facility of the department of health and welfare or if the defendant is found to be dangerously mentally ill as defined in section 66-1305, Idaho Code, to the department of correction for a period not exceeding ninety (90) days. For purposes of this section "facility" shall mean a state hospital, institution, mental health center, or those facilities enumerated in subsection (78) of section 66-402, Idaho Code, equipped to evaluate or rehabilitate such defendants. The order of commitment shall require the county sheriff to transport the defendant to and from the facility and require an evaluation of the defendant's mental condition at the time of admission to the facility, and a progress report on the defendant's mental condition. The progress report shall include an opinion whether the defendant is fit to proceed, or if not, whether there is a substantial probability the defendant will be fit to proceed within the foreseeable future. If the report concludes that there is a substantial probability that the defendant will be fit to proceed in the foreseeable future, the court may order the continued commitment of the defendant for an additional one hundred eighty (180) days. If at any time the director of the facility to which the defendant is committed determines that the defendant is fit to proceed, such determination shall be reported to the court.

(3) Each report shall be filed in triplicate with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant. Upon receipt of a report, the court shall determine, after a hearing if a hearing is requested, the disposition of the defendant and the proceedings against him. If the court determines that the defendant is fit to proceed, the proceeding shall be resumed. If at the end of the initial ninety (90)

days the court determines that the defendant is unfit and there is not a substantial probability the defendant will be fit to proceed within the foreseeable future or if the defendant is not fit to proceed after the expiration of the additional one hundred eighty (180) days, involuntary commitment proceedings shall be instituted pursuant to either section 66-329 or section 66-406, Idaho Code, in the court in which the criminal charge is pending.

(4) In its review of commitments pursuant to section 66-337, Idaho Code, the department of health and welfare shall determine whether the defendant is fit to proceed with trial. The department of health and welfare shall review its commitments pursuant to chapter 4, title 66, Idaho Code, and may recommend that the defendant is fit to proceed with trial. If the district court which committed the defendant pursuant to section 66-406, Idaho Code, agrees with the department's recommendation and finds the conditions which justified the order pursuant to section 66-406, Idaho Code, do not continue to exist, criminal proceedings may resume. If the defendant is fit to proceed, the court in which the criminal charge is pending shall be notified and the criminal proceedings may resume. If, however, the court is of the view that so much time has elapsed, excluding any time spent free from custody by reason of the escape of the defendant, since the commitment of the defendant that it would be unjust to resume the criminal proceeding, the court may dismiss the charge.

(5) If a defendant escapes from custody during his confinement, the director shall immediately notify the court from which committed, the prosecuting attorney and the sheriff of the county from which committed. The court shall forthwith issue an order authorizing any health officer, peace officer, or the director of the institution from which the defendant escaped, to take the defendant into custody and immediately return him to his place of confinement.

SECTION 6. That Section 63-3022E, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022E. HOUSEHOLD DEDUCTION FOR DEPENDENTS SIXTY-FIVE YEARS OF AGE OR OLDER OR PERSONS WITH DEVELOPMENTAL DISABILITIES. (1) An additional deduction from taxable income shall be allowed in the case of an individual who maintains a household, which includes as an immediate member of the family residing in that household, one (1) or more individuals sixty-five (65) years of age or older, or a person with developmental disabilities as defined in subsection (45) of section 66-402, Idaho Code, regardless of the age of the person when such developmental disability appeared, each of whom receives more than one-half (1/2) of his or her support for the year from the individual who maintains the household. The amount of the deduction shall be one thousand dollars (\$1,000) for each individual sixty-five (65) years of age or older or with developmental disabilities.

(2) There shall not be allowed more than three (3) deductions of one thousand dollars (\$1,000) under the provisions of this section on any one (1) return.

(3) No deductions shall be allowed under this section for the person(s) in whose name(s) the income tax return is filed except as set forth in subsection (4) of this section.

(4) A deduction of one thousand dollars (\$1,000) shall be allowed under this section for a person with a developmental disability, as defined in subsection (45) of section 66-402, Idaho Code, who is filing his own return.

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

63-3025D. PAYMENT FOR DEPENDENTS SIXTY-FIVE YEARS OF AGE OR OLDER OR PERSON WITH DEVELOPMENTAL DISABILITIES. (1) In lieu of the deduction from taxable income allowed by section 63-3022E, Idaho Code, a resident individual who maintains a household, which includes as an immediate member of the family residing in that household, one (1) or more individuals sixty-five (65) years of age or older or individuals with developmental disabilities, as defined in subsection (45) of section 66-402, Idaho Code, each of whom receives more than one-half (1/2) of his or her support for the year from the individual who maintains the household, shall be entitled to a payment from the refund account of one hundred dollars (\$100) for each such elderly member of the family or family member with a developmental disability. Any such payment shall be paid to such individual only upon his making application therefor at such time and in such manner as may be prescribed by the state tax commission.

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

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

(4) A credit of one hundred dollars (\$100) shall be allowed under this section for a person with a developmental disability as defined in subsection (45) of section 66-402, Idaho Code, who is filing his own tax return.

Approved March 24, 1999.

CHAPTER 294
(H.B. No. 152)

AN ACT

RELATING TO STATE PARKS; AMENDING SECTION 67-4212, IDAHO CODE, TO INCLUDE LAKE CASCADE STATE PARK AND LAKE WALCOTT STATE PARK IN THE STATE PARK SYSTEM AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-4212, Idaho Code, be, and the same is hereby amended to read as follows:

67-4212. STATE PARKS LISTED -- CONTROLLED BY PARK AND RECREATION BOARD OF THE DEPARTMENT OF PARKS AND RECREATION. The following

described areas in the state of Idaho, so far as these areas are owned or controlled by the state of Idaho, and used for public, outdoor recreational purposes, are hereby declared to be Idaho state parks, and they are hereby placed under the jurisdiction and control of the park and recreation board of the department of parks and recreation of the state of Idaho:

(1) Priest Lake State Park consisting of Indian Creek and Lion Head units on the east shore of Priest Lake to a depth of one thousand (1,000) feet from the shoreline in Bonner County. This park also includes Dickensheet Campground, located on Priest River downstream from Priest Lake in Bonner County.

(2) Round Lake State Park, located on the shores of Little Round Lake west of State Highway 95 in Bonner County.

(3) Farragut State Park, located near the village of Bayview, east of State Highway 95 in Kootenai County.

(4) Old Mission State Park, located adjacent to Interstate Highway 90 near Cataldo in Kootenai County.

(5) Mowry State Park, located on the south shore of Lake Coeur d'Alene east of U.S. Highway 95 near Worley in Kootenai County.

(6) Heyburn State Park, located on Lake Chatcolet east of U.S. Highway 95 in Benewah County.

(7) Mary Minerva McCroskey Memorial State Park, located at and near the boundary line between Latah and Benewah Counties and west of U.S. Highway 95.

(8) Dworshak State Park, consisting of the Freeman Creek and Three Meadows Group Camp areas, located on the shores of Dworshak Reservoir northeast of U.S. Highway 12, and leased from the U.S. Army Corps of Engineers.

(9) Hells Gate State Park, located on the Snake River at Lewiston, Snake River Avenue, Nez Perce County.

(10) Winchester Lake State Park, located adjacent to the city of Winchester, on Winchester Lake in Lewis County.

(11) Ponderosa State Park, constituted by all the land of the state of Idaho department of parks and recreation adjacent to Payette Lake in Valley County. Also included in this park is the Packer John Cabin Site, located along State Highway 55 near Old Meadows in Adams County.

(12) Eagle Island State Park, located on Hatchery Road west of the town of Eagle in Ada County.

(13) Veterans Memorial State Park, located in the city of Boise, on State Highway 44 in Ada County.

(14) Lucky Peak State Park, constituted by all recreational areas leased to the state of Idaho on the shores of Lucky Peak Reservoir on the Boise River in Ada and Boise Counties and the Sandy Point area on the Boise River in Ada County. Discovery State Park, located approximately eight (8) miles southeast of Boise between Lucky Peak Dam and Diversion Dam on the Boise River and along State Highway 21 in Ada County.

(15) Three Island State Park, located adjacent to the City of Glenns Ferry and the Snake River, south of Interstate Highway 84 in Elmore County.

(16) Bruneau Dunes State Park, located approximately three (3) miles south of the Snake River near the town of Bruneau and east of

State Highway 51 in Owyhee County.

(17) Malad Gorge State Park, located on the Malad River and south of Interstate Highway 84 in Gooding County. Crystal Springs and Niagara Springs State Parks located on the Snake River south of Interstate Highway 84 and east of U.S. 30 in Gooding County.

(18) City of Rocks, (one section of land within the National Reserve) located west of the Village of Almo in Cassia County.

(19) Massacre Rocks State Park, located approximately ten (10) miles west of American Falls on Interstate Highway 86 in Power County and including Register Rock.

(20) Bear Lake State Park, located on the east shoreline of Bear Lake south of U.S. Highway 30 and east of U.S. Highway 89, north of the Idaho-Utah state line in Bear Lake County. This park also includes the North Beach area leased from Utah Power and Light Company.

(21) Harriman State Park, located adjacent to and east of U.S. Highway 20 in Fremont County.

(22) Henry's Lake State Park, located on the shores of Henry's Lake west of State Highway 87 in Fremont County.

(23) Lake Cascade State Park, located on the shores of Cascade Reservoir in Valley County.

(24) Lake Walcott State Park, located on the shores of Walcott Reservoir in Minidoka County.

Approved March 24, 1999.

CHAPTER 295
(H.B. No. 176, As Amended)

AN ACT

RELATING TO PUBLIC SCHOOL READING ASSESSMENTS; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1614, IDAHO CODE, TO IDENTIFY THE IDAHO COMPREHENSIVE LITERACY PLAN AS THE SKILLS REFERENCE DOCUMENT, TO REQUIRE A READING ASSESSMENT IN GRADES SPECIFIED, TO REQUIRE INTERVENTIONS TO ADDRESS NEEDS IDENTIFIED, TO GOVERN ADMINISTRATION OF THE TEST, AND TO PROVIDE LEGISLATIVE INTENT.

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

SECTION 1. That Chapter 16, 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 33-1614, Idaho Code, and to read as follows:

33-1614. READING ASSESSMENT. The state department of education shall be responsible for administration of all assessment efforts, train assessment personnel and report results.

(1) In continuing recognition of the critical importance of reading skills, and after an appropriate phase-in time as determined by the state board of education, all public school students in kindergarten and grades one (1), two (2) and three (3) shall have their reading

skills assessed. For purposes of this assessment, the state board approved and research-based "Idaho Comprehensive Literacy Plan" shall be the reference document. The kindergarten assessment shall include reading readiness and phonological awareness. Grades one (1), two (2) and three (3) shall test for fluency and accuracy of the student's reading. The assessment shall be by a single statewide test specified by the state board of education, and the state department of education shall ensure that testing shall take place not less than two (2) times per year in the relevant grades. Additional assessments may be administered for students in the lowest twenty-five percent (25%) of reading progress. The state K-3 assessment test results shall be reviewed by school personnel for the purpose of providing necessary interventions to sustain or improve the students' reading skills. Results shall be maintained and compiled by the state department of education and shall be reported annually to the state board, legislature and governor and made available to the public in a consistent manner, by school and by district.

(2) The scores of the tests and interventions recommended and implemented shall be maintained in the permanent record of each student.

(3) The administration of the state K-3 assessments is to be done in the local school districts by individuals chosen by the district other than the regular classroom teacher. All those who administer the assessments shall be trained by the state department of education.

(4) It is legislative intent that curricular materials utilized by school districts for kindergarten through grade three (3) shall align with the "Idaho Comprehensive Literacy Plan."

Approved March 24, 1999.

CHAPTER 296
(H.B. No. 177, As Amended)

AN ACT

RELATING TO PROGRAMS OF INSTRUCTION; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1615, IDAHO CODE, TO ADOPT AN EXTENDED YEAR READING PROGRAM, TO SPECIFY REIMBURSEMENT OF COSTS AND TO AUTHORIZE THE STATE DEPARTMENT OF EDUCATION TO ADOPT GUIDELINES.

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

SECTION 1. That Chapter 16, 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 33-1615, Idaho Code, and to read as follows:

33-1615. EXTENDED YEAR READING INTERVENTION PROGRAM. The board of trustees of each school district shall establish an extended year state board approved reading program for students identified as below grade level on reading assessments in kindergarten through grade three

(3). The program shall be the equivalent of forty (40) hours of instruction. Subject to an amount appropriated, instructional costs of the extended year reading intervention program shall be reimbursed by the state, with the exception of transportation which shall be reimbursed at an amount not to exceed thirty dollars (\$30.00) per student per session. For the purpose of program reimbursement, the state department of education shall adopt reporting forms, establish reporting dates, and adopt such additional guidelines and standards as necessary to accomplish the program goals that every child will read fluently and comprehend printed text on grade level by the end of the third grade. Districts shall apply for an intervention program reimbursement based on a reporting procedure developed and administered by the state department of education. Intervention program participation and effectiveness by school and district shall be presented annually to the state board, the legislature and the governor.

Approved March 24, 1999.

CHAPTER 297
(H.B. No. 204)

AN ACT

RELATING TO MEMBERS OF THE LEGISLATURE; AMENDING CHAPTER 4, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-423A, IDAHO CODE, TO PROVIDE FOR EMERGENCY INTERIM SUCCESSION OF A MEMBER OF THE LEGISLATURE IN THE EVENT OF DEATH AND UNTIL A REPLACEMENT IS APPOINTED PURSUANT TO LAW; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 4, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-423A, Idaho Code, and to read as follows:

67-423A. ASSUMPTION OF POWERS AND DUTIES OF LEGISLATOR BY EMERGENCY INTERIM SUCCESSOR IN THE EVENT OF DEATH. If in the event a legislator dies, his emergency interim successor highest in order of succession who is not unavailable shall, except for the power and duty to appoint emergency successors, exercise the powers and assume the duties of such legislator. An emergency interim successor shall exercise these powers and assume these duties until an emergency interim successor higher in order of succession, or a replacement legislator appointed pursuant to section 59-904A, Idaho Code, and legally qualified can act. Each house of the legislature shall, in accordance with its own rules, determine who is entitled under the provisions of this act to exercise the powers and assume the duties of its members. All constitutional and statutory provisions pertaining to ouster of a legislator shall be applicable to an emergency interim successor who is exercising the powers and assuming the duties of a legislator.

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, 1999.

CHAPTER 298
(S.B. No. 1031)

AN ACT

RELATING TO VESSELS; AMENDING SECTION 49-123, IDAHO CODE, TO PROVIDE A REFERENCE TO THE DEFINITION OF "VESSEL" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 5, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-501A, IDAHO CODE, TO PROVIDE APPLICATION TO VESSEL TITLING; AMENDING CHAPTER 70, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7039, IDAHO CODE, TO ESTABLISH THE VESSEL TITLING ACT, TO PROVIDE AUTHORITY TO THE IDAHO TRANSPORTATION DEPARTMENT TO ADMINISTER THE PROVISIONS OF THE ACT, TO PROVIDE FOR TITLING PROCEDURES, TO REQUIRE LICENSING OF CERTAIN PERSONS AND TO REQUIRE VESSEL DEALERS TO PROCURE AND FILE A BOND; AMENDING CHAPTER 70, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7040, IDAHO CODE, TO PROVIDE APPLICATION OF THE VESSEL TITLING ACT TO CERTAIN VESSELS; AMENDING CHAPTER 70, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7041, IDAHO CODE, TO PROVIDE FOR TREATMENT OF LIENS AND ENCUMBRANCES ON VESSELS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

49-123. DEFINITIONS -- V.

(1) "Variable load suspension axle" means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. See also section 49-117, Idaho Code.

(a) "Fully raised" means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.

(b) "Fully deployed" means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.

(2) "Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging

to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one (1) or more lanes of traffic, other emergency vehicles designated by the director of the department of law enforcement or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

(c) Commercial vehicle or commercial motor vehicle. For the purposes of chapter 3 of this title, (driver's licenses), a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

1. Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or
2. Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or
3. Is designed to transport sixteen (16) or more people, including the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4, ~~of this title~~ 49, Idaho Code, (motor vehicle registration), a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(d) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the

transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.

(e) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(f) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

(g) Motor vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheelchairs.

(h) Multipurpose passenger vehicle (MPV). For the purposes of section 49-966, Idaho Code, a motor vehicle designed to carry ten (10) or fewer persons which is constructed either on a truck chassis or with special features for occasional off-road operation.

(i) Noncommercial vehicle. For the purposes of chapter 4, of this title 49, Idaho Code, (motor vehicle registration), a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(j) Passenger car. For the purposes of section 49-966, Idaho Code, a motor vehicle, except a multipurpose passenger vehicle, motorcycle or trailer, designed to carry ten (10) or fewer persons.

(k) Reconstructed or repaired vehicle. Every vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a "reconstructed vehicle" or "repaired vehicle" brand is required, and other vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed

under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. A glider kit vehicle is not a reconstructed vehicle.

(1) Salvage vehicle. Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any motor vehicle, such motor vehicle shall be considered to be a salvage vehicle.

(m) Specially constructed vehicle. Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction and cannot be visually identified as a vehicle produced by a particular manufacturer. This includes:

1. A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or
2. A vehicle that has been constructed entirely from home-made parts and materials not obtained from other vehicles; or
3. A vehicle that has been constructed by using major component parts from one (1) or more manufactured vehicles and cannot be identified as a specific make or model; or
4. A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model.

(n) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair due to scrapping, dismantling or destruction. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "Identifying number", section 49-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "full-time salesman", section 49-107, Idaho Code, and "part-time salesman", section 49-117, Idaho Code)

(5) "Vessel." (See section 67-7003, Idaho Code)

(6) "Veteran." (See section 65-509, Idaho Code)

(67) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

SECTION 2. That Chapter 5, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-501A, Idaho Code, and to read as follows:

49-501A. APPLICATION TO VESSEL TITLING. The procedures provided in this chapter shall apply to all vessel titling programs referenced in chapter 70, title 67, Idaho Code. Any reference to "vehicle" in this chapter shall also mean "vessel."

SECTION 3. That Chapter 70, 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 67-7039, Idaho Code, and to read as follows:

67-7039. VESSEL TITLING ACT. (1) Sections 67-7039 through 67-7041, Idaho Code, shall be known and cited as the "Vessel Titling Act."

(2) The Idaho transportation department is hereby granted authority to carry out the administration of the provisions of this act and to promulgate rules to effectuate that purpose.

(3) All titling procedures for vessels shall be governed by title 49, Idaho Code. The term "vessel" shall be interchangeable with the term "vehicle" throughout title 49, Idaho Code, for the purposes of vessel titling and vessel dealers and salesmen licensing requirements.

(4) All vessel dealers, wholesalers, manufacturers, salesmen, distributors and representatives shall be required to be licensed as required by chapter 16, title 49, Idaho Code.

(5) All vessel dealers shall be required to procure and file a bond in the amount required in section 49-1608, Idaho Code.

SECTION 4. That Chapter 70, 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 67-7040, Idaho Code, and to read as follows:

67-7040. APPLICATION TO CERTAIN VESSELS. (1) The provisions of the vessel titling act shall apply to every 2000 and newer model year vessel upon transfer of ownership, and optionally to all other vessels of a model year prior to 2000, effective on and after January 1, 2000, even though vessels need not be registered under the provisions of chapter 4, title 49, Idaho Code. Vessels shall be issued a certificate of registration as provided in section 67-7008, Idaho Code.

(2) The provisions of the vessel titling act shall apply exclusively to vessels with a permanently attached mode of propulsion, such as: an inboard motor, sail, personal watercraft, or other propelling machinery, and all vessels over twelve (12) feet regardless of mode of propulsion, except: rowboats, canoes, kayaks, inflatable vessels, rafts, barges, nonmotorized paddle vessels, sailboards, tenders, seaplanes, document vessels, and vessels owned by the United States or a foreign state or political subdivision.

(3) Once titled, the vessel remains a titled vessel, and is subject to the requirements of chapter 5, title 49, Idaho Code.

SECTION 5. That Chapter 70, 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 67-7041, Idaho Code, and to read as follows:

67-7041. LIENS AND ENCUMBRANCES -- FILING -- NOTATION ON CERTIFICATE -- CONSTRUCTIVE NOTICE. No lien or encumbrance created on or after January 1, 2000, on any vessel titled under the laws of this state, 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 title application and all required supporting documents with the Idaho transportation department or an agent of that department.

SECTION 6. This act shall be in full force and effect on and after January 1, 2000.

Approved March 24, 1999.

CHAPTER 299
(S.B. No. 1042)

AN ACT

RELATING TO BOMBS; AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3320A, IDAHO CODE, TO PROVIDE FOR DISPOSAL OF DESTRUCTIVE DEVICES OR BOMBS, TO REQUIRE THAT CERTAIN RECORDS BE KEPT AND TO PROVIDE THAT DESTRUCTION OF A DESTRUCTIVE DEVICE OR BOMB DOES NOT BAR PROSECUTION FOR ANY VIOLATION OF LAW.

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

SECTION 1. That Chapter 33, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-3320A, Idaho Code, and to read as follows:

18-3320A. DISPOSAL OF DESTRUCTIVE DEVICES OR BOMBS. Any destructive device or bomb that has been lawfully seized by a law enforcement agency may be destroyed in a reasonable manner. An official record listing the destructive device or bomb destroyed and the location of destruction shall be kept on file at the office of the seizing agency. In the event of such destruction, a photograph, videotape, or similar record of the device or bomb shall be preserved for evidentiary purposes. The destruction of a destructive device or bomb before a preliminary hearing, trial, or both shall not be a bar to prosecution for any violation of law.

Approved March 24, 1999.

CHAPTER 300
(S.B. No. 1045)

AN ACT

RELATING TO ARREST OF PAROLEE OR PROBATIONER WITHOUT WARRANT; AMENDING SECTION 20-227, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF AN AGENT'S WARRANT TO AUTHORIZE LOCAL LAW ENFORCEMENT OFFICERS TO TRANSPORT PERSONS ALLEGED TO HAVE VIOLATED CONDITIONS OF PAROLE OR PROBATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 20-227, Idaho Code, be, and the same is hereby amended to read as follows:

20-227. ARREST OF PAROLEE OR PROBATIONER WITHOUT WARRANT -- AGENT'S WARRANT -- DETENTION -- REPORT TO COMMISSION OR COURT.

(1) Any parole or probation officer may arrest a parolee or probationer without a warrant, or may deputize any other officer with power of arrest to do so, by giving him such officer a written statement hereafter referred to as an agent's warrant, setting forth that the parolee or probationer has, in the judgment of said parole or probation officer, violated the conditions of his parole or probation.

(2) Such written statement or agent's warrant, delivered with the parolee or probationer by the arresting officer to the official in charge of the institution from which the parolee was released, the county jail or other place of detention, shall be sufficient warrant for the detention of the probationer or parolee.

(3) The agent's warrant issued by the parole or probation officer shall be sufficient authorization for a local law enforcement officer to transport the probationer or parolee to the appropriate jurisdiction to be housed pending appearance before the sentencing court or the commission.

(4) The parole and probation officer shall at once notify the commission, or the court, of the arrest and detention of the parolee or probationer, and shall submit in writing a report showing in what manner the parolee or probationer is alleged to have violated the condition of his or her parole or probation.

(5) In counties where there are misdemeanor probation officers in addition to department of correction parole or probation officers, those officers shall have the same authority conferred upon department of correction parole or probation officers in this section, to arrest a misdemeanor probationer without a warrant for misdemeanor probation violations occurring in the officer's presence as otherwise provided in this section.

Approved March 24, 1999.

CHAPTER 301
(S.B. No. 1063)

AN ACT

RELATING TO COUNTY JAILS; AMENDING SECTION 20-601, IDAHO CODE, TO PROVIDE FOR THE AUTHORITY FOR JAIL PERSONNEL TO HOLD A PERSON IN THE COUNTY JAIL UNTIL THE BOOKING PROCESS IS COMPLETED, TO PROVIDE THE BOOKING PROCESS AND TO PROVIDE PROCEDURES.

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

SECTION 1. That Section 20-601, Idaho Code, be, and the same is hereby amended to read as follows:

20-601. COUNTY JAILS -- BY WHOM KEPT AND FOR WHAT USE. The common jails in the several counties of this state are kept by the sheriffs of the counties in which they are respectively situated, and are used as follows:

1. For the detention of persons committed in order to secure their attendance as witnesses in criminal cases.

2. For the detention of persons charged with crime and committed for trial.

3. For the confinement of persons committed for contempt, or upon civil process, or by other authority of law.

4. For the confinement of persons sentenced to imprisonment therein upon a conviction for crime.

5. Any person who is arrested and taken to a county jail shall submit to the entire booking process, to include, but not be limited to, having his or her photograph taken and his or her fingerprints recorded. Any person who refuses to submit to the entire booking process will be held in the county jail until the process is completed, or until ordered to be released by a magistrate or district judge. A person held under this section shall be taken before a magistrate at the next scheduled first appearance time, but shall not be released until either the entire booking process is completed or the judge orders the release.

Approved March 24, 1999.

CHAPTER 302
(S.B. No. 1077)

AN ACT

RELATING TO SEXUAL OFFENDER REGISTRATION; AMENDING SECTION 18-8304, IDAHO CODE, TO CLARIFY CRIMES TO WHICH REQUIREMENTS FOR SEXUAL OFFENDER REGISTRATION APPLY; AMENDING SECTION 18-8306, IDAHO CODE, TO CLARIFY THE NUMBER OF DAYS IN WHICH A CHANGE OF ADDRESS NOTIFICATION IS REQUIRED; AMENDING SECTION 18-8307, IDAHO CODE, TO PROVIDE THAT PERSONS REGISTERED UNDER THE PREVIOUS SEXUAL OFFENDER REGISTRATION ACT MUST REGISTER UNDER THE CURRENT ACT; AMENDING

SECTION 18-8309, IDAHO CODE, TO CLARIFY THE NUMBER OF DAYS IN WHICH A CHANGE OF ADDRESS OR NAME MUST BE FILED; AMENDING SECTION 18-8317, IDAHO CODE, TO CLARIFY REFERENCES; AMENDING SECTION 18-8318, IDAHO CODE, TO REQUIRE INDIGENT OFFENDERS FOR WHOM THE COUNTY HAS PAID THE COST OF PSYCHOSEXUAL EVALUATION TO REPAY THE COUNTY; AND AMENDING SECTION 18-8323, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 18-8304, Idaho Code, be, and the same is hereby amended to read as follows:

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 (assault with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (battery with intent to commit 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.

SECTION 2. That Section 18-8306, Idaho Code, be, and the same is hereby amended to read as follows:

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) working 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.

SECTION 3. That Section 18-8307, Idaho Code, be, and the same is hereby amended to read as follows:

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. Individuals registered under the prior sex offender registration act, including those registered within twelve (12) months of the effective date of this act, shall register with the sheriff of the county of residence within ten (10) days of the effective date of this act. 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.

SECTION 4. That Section 18-8309, Idaho Code, be, and the same is hereby amended to read as follows:

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) working 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) work-

ing 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) working days of the order, event or other occurrence.

SECTION 5. That Section 18-8317, Idaho Code, be, and the same is hereby amended to read as follows:

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 to the board for psychosexual evaluation by the department of correction 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 designated 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.

SECTION 6. That Section 18-8318, Idaho Code, be, and the same is hereby amended to read as follows:

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. As a condition of sentence, indigent offenders for whom the county has paid the cost of evaluation performed pursuant to section 18-8316, Idaho Code, shall be required to repay the county for the cost.

SECTION 7. That Section 18-8323, Idaho Code, be, and the same is hereby amended to read as follows:

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 18-15606, Idaho Code.

(h) Any information identifying any person related to, living with, working for, employing or otherwise associated with a registered 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.

Approved March 24, 1999.

CHAPTER 303
(S.B. No. 1079)

AN ACT

RELATING TO THE AUGMENTED ESTATE; AMENDING SECTION 15-2-202, IDAHO CODE, TO REMOVE THE ONE-HALF LIMITATION ON WHAT PORTION OF PREVIOUSLY TRANSFERRED PROPERTY CAN BE RECOVERED BY A SURVIVING SPOUSE OF THE TRANSFEROR, TO CLARIFY THE ALTERNATIVE NATURE OF THE QUALIFICATIONS SET FORTH FOR THE RECOVERY AND TO UPDATE THE REFERENCE TO THE ANNUAL EXCLUSION FOR THE FEDERAL GIFT TAX.

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

SECTION 1. That Section 15-2-202, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-202. AUGMENTED ESTATE. Whenever a married person domiciled in the state has made a transfer of quasi-community property to a person other than the surviving spouse without adequate consideration and without the consent of the surviving spouse, the surviving spouse may require the transferee to restore to the decedent's estate ~~one-half (1/2)~~ of such property, if the transferee retains such property and, if not, ~~one-half (1/2)~~ of its proceeds or, if none, ~~one-half (1/2)~~ of its value at the time of transfer, if:

(a) The decedent retained, at the time of his death, the possession or enjoyment of or the right to income from the property; or

(b) The decedent retained, at the time of his death, a power, either alone or in conjunction with any other person, to revoke or to consume, invade or dispose of the principal for his own benefit; or

(c) The decedent held the property at the time of his death with another with the right of survivorship; or

(d) The decedent had transferred such property within two (2) years of his death to the extent that the aggregate transfers to any one (1) donee in either of the years exceeded ~~three-thousand-dollars (\$3,000)~~ ten thousand dollars (\$10,000) or the amount of the annual exclusion for the federal gift tax set forth at 26 U.S.C. section 2503, whichever is greater.

Approved March 24, 1999.

CHAPTER 304
(S.B. No. 1080)

AN ACT

RELATING TO TESTAMENTARY ADDITIONS TO TRUSTS; AMENDING SECTION 15-2-511, IDAHO CODE, TO CLARIFY THAT A TRUST NEED NOT HAVE BEEN ESTABLISHED DURING THE DECEDENT'S LIFE, BUT CAN BE ESTABLISHED BY THE DEVISE ITSELF.

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

SECTION 1. That Section 15-2-511, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-511. TESTAMENTARY ADDITIONS TO TRUSTS. ~~A devise or bequest, the validity of which is determinable by the law of this state, may be made by a will~~

(1) (a) A will may validly devise property to the trustee of a trust established or to be established:

(i) During the testator's lifetime by the testator or by the testator and some other person or by some other person, (including a funded or unfunded life insurance trust, although the trustor has reserved any or all rights of ownership of the insurance contracts); or

(ii) At the testator's death by the testator's devise to the trustee if the trust is identified in the testator's will and its terms are set forth in a written instrument, (other than a will), executed before or concurrently with after the execution of the testator's will or in the valid last will of a person---who another individual's will if that other individual has predeceased the testator, (regardless of the existence, size, or character of the corpus of the trust).

(b) The devise is not invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or after the testator's death, of the testator.

(2) Unless the testator's will provides otherwise, the property so devised to a trust described in subsection (1) of this section is not deemed--to-be held under a testamentary trust of the testator but it becomes a part of the trust to which it is given devised and (2) shall must be administered and disposed of in accordance with the provisions of the governing instrument or will setting forth the terms of the trust, including any amendments thereto made before or the death of the testator (regardless of whether made before or after the execution of the testator's will); and, if the testator's will so provides, including any amendments--to--the--trust--made after the testator's death, of the testator.

(3) Unless the testator's will provides otherwise a A revocation or termination of the trust before the testator's death of the--testator causes the devise to lapse.

Approved March 24, 1999.

CHAPTER 305
(S.B. No. 1081)

AN ACT

RELATING TO THE EXEMPTION OF ROTH IRA'S FROM ENFORCEMENT OF JUDGMENTS;
AMENDING SECTION 11-604A, IDAHO CODE, TO ADD REFERENCE TO SECTION
408A OF THE INTERNAL REVENUE CODE.

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

SECTION 1. That Section 11-604A, Idaho Code, be, and the same is hereby amended to read as follows:

11-604A. PENSION MONEY EXEMPT. (1) It is the policy of the state of Idaho to ensure the well-being of its citizens by protecting retirement income to which they are or may become entitled. For that purpose generally and pursuant to the authority granted to the state of Idaho under 11 U.S.C. section 522(b)(2), the exemptions in this section relating to retirement benefits are provided.

(2) Unless otherwise provided by federal law, any money received by any citizen of the state of Idaho as a pension from the government of the United States, whether the money be in the actual possession of a citizen or be deposited or loaned, shall be exempt from execution, attachment, garnishment, seizure, or other levy by or under any legal process whatever. When a debtor dies, or absconds, and leaves his family any money exempted by this subsection, the money shall be exempt to the family as provided in this subsection. This subsection shall not apply to any child support collection actions, if otherwise permitted by federal law.

(3) The right of a person to a pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Idaho under any employee benefit plan, and any fund created by the benefit plan or arrangement, shall be exempt from execution, attachment, garnishment, seizure, or other levy by or under any legal process whatever. This subsection shall not apply to any child support collection actions, if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in the plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for those orders under the plan, or, in the case of benefits payable under a plan described in sections 403(b), or 408 or 408A of the internal revenue code of 1986, as amended, or section 409 of the internal revenue code as in effect before January 1, 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides for maintenance or support. This subsection shall not prohibit actions against an employee benefit plan or fund for valid obligations incurred by the plan or fund for the benefit of the plan or fund.

(4) For the purposes of this section, the term "employee benefit plan" means:

(a) Assets held, payments made, and amounts payable under a stock

bonus, pension, profit-sharing, annuity, or similar plan or contract, providing benefits by reason of age, illness, disability, or length of service;

(b) Any plan or arrangement, whether funded by a trust, an annuity contract, an insurance contract, or an individual account, that is described in sections 401(a), 403(a), 403(b), or 408 or 408A of the internal revenue code of 1986, as amended, or section 409 of the internal revenue code as in effect before January 1, 1984. The term "employee benefit plan" shall not include any employee benefit plan that is established or maintained for its employees by the government of the United States, by the state of Idaho or any political subdivision of the state, or by any agent or instrumentality of any of the foregoing.

(5) An employee benefit plan shall be deemed to be a spendthrift trust, regardless of the source of funds, the relationship between the beneficiary and the trustee or custodian of the plan, or the ability of the debtor to withdraw, borrow or otherwise become entitled to benefits from the plan before retirement. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in the plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for those orders under the plan, or, in the case of benefits payable under a plan described in sections 403(b), or 408 or 408A of the internal revenue code of 1986, as amended, or section 409 of the internal revenue code as in effect before 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides home maintenance or support.

Approved March 24, 1999.

CHAPTER 306
(S.B. No. 1082)

AN ACT

RELATING TO SATISFACTION OF PECUNIARY DEVICES OR TRANSFERS BY DISTRIBUTION IN KIND; AMENDING PART 1, CHAPTER 1, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-1-109, IDAHO CODE, TO PROVIDE PROCEDURES FOR SATISFACTION OF PECUNIARY DEVICES OR TRANSFERS BY DISTRIBUTION IN KIND AND TO PROVIDE FOR A STATEMENT OF THE FIDUCIARY PRINCIPLES APPLICABLE TO FIDUCIARIES.

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

SECTION 1. That Part 1, Chapter 1, Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 15-1-109, Idaho Code, and to read as follows:

15-1-109. SATISFACTION OF PECUNIARY DEVICES OR TRANSFERS BY DISTRIBUTION IN KIND. (1) Whenever a personal representative or a trustee satisfies a pecuniary devise or transfer in trust by a distribution in

kind with assets at their value for federal estate tax purposes, such fiduciary, in order to implement such a devise or transfer in trust, must, unless the governing instrument provides otherwise, distribute assets, including cash, fairly representative of appreciation or depreciation in all of the property so available for distribution in satisfaction of such pecuniary devise or transfer.

(b) Subsection (1) of this section is not intended to imply that the present law of this state, relating to selection of assets by fiduciaries in the circumstances herein described, has been otherwise than as set forth herein, but is a statement of the fiduciary principles applicable to such fiduciaries.

Approved March 24, 1999.

CHAPTER 307
(S.B. No. 1088, As Amended in the House)

AN ACT

RELATING TO PROPERTY EXEMPT FROM ATTACHMENT OR LEVY; AMENDING SECTION 11-605, IDAHO CODE, TO INCREASE THE VALUE LIMITATIONS FOR CERTAIN EXEMPT HOUSEHOLD ITEMS, TO REDEFINE THE HOUSEHOLD ITEMS TO WHICH THE EXEMPTION APPLIES, TO INCREASE THE EXEMPTIONS FOR JEWELRY, TOOLS OF THE TRADE AND A MOTOR VEHICLE AND TO ADD EXEMPTIONS FOR CERTAIN LIFE INSURANCE CONTRACTS AND OTHER PROPERTY.

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

SECTION 1. That Section 11-605, Idaho Code, be, and the same is hereby amended to read as follows:

11-605. EXEMPTIONS OF PERSONAL PROPERTY SUBJECT TO VALUE LIMITATIONS. (1) An individual is entitled to exemption of the following property to the extent of a value not exceeding five hundred dollars (\$500) on any one (1) item of property and not to exceed a total value of four five thousand dollars (\$45,000) ~~per-household~~ for all items exempted under this subsection:

(a) household furnishings, household goods, and appliances reasonably necessary for one (1) household, including one (1) firearm held primarily for the personal, family, or household use of the individual or a dependent of the individual;

(b) if reasonably held for the personal use of the individual or a dependent, wearing apparel, ~~household-pets~~ animals, books, and musical instruments; and

(c) family portraits and heirlooms of particular sentimental value to the individual.

(2) An individual is entitled to exemption of jewelry, not exceeding ~~two-hundred-fifty~~ one thousand dollars (\$251,000) in aggregate value, if held for the personal use of the individual.

(3) An individual is entitled to exemption, not exceeding one thousand five hundred dollars (\$1,0500) in aggregate value, of implements, professional books, and tools of the trade; and to an exemption

of one (1) motor vehicle to the extent of a value not exceeding one three thousand five-hundred dollars (\$3,500).

(4) All courthouses, jails, public offices and buildings, school houses, lots, grounds and personal property appertaining thereto, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this state, or for the use of schools, and all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by such town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this state. No article or species of property mentioned in this section is exempt from execution issued upon a judgment recovered for its price or upon a mortgage thereon.

(5) All arms, uniforms and accouterments required for the use of an individual as a peace officer, a member of the national guard or military service.

(6) A water right not to exceed one hundred sixty (160) inches of water used for the irrigation of lands actually cultivated by the individual, and the crop or crops growing or grown on fifty (50) acres of land, leased, owned or possessed by an individual cultivating the same, provided, that the amount of the crops so exempted shall not exceed the value of one thousand dollars (\$1,000).

(7) An individual is entitled to exemption of one (1) firearm valued at less than five hundred dollars (\$500).

(8) Any unmatured life insurance contract owned by an individual, other than a credit life insurance contract.

(9) An individual's aggregate interest, not to exceed five thousand dollars (\$5,000) in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the individual under which the insured is the individual or a person of whom the individual is a dependent.

(10) An individual's aggregate interest in any property, not to exceed the value of eight hundred dollars (\$800).

Approved March 24, 1999.

CHAPTER 308

(S.B. No. 1089, As Amended, As Amended in the House)

AN ACT

RELATING TO RECORDS EXEMPT FROM DISCLOSURE; AMENDING SECTION 9-340B, IDAHO CODE, AS ADDED BY SECTION 3 OF HOUSE BILL 93, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE, TO EXTEND AN EXEMPTION FROM DISCLOSURE UNDER THE PUBLIC RECORDS ACT TO OPERATIONS MANUALS OF COUNTY JAILS.

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

SECTION 1. That Section 9-340B, Idaho Code, as added by Section 3 of House Bill 93, enacted by the First Regular Session of the Fifty-fifth Idaho Legislature, be, and the same is hereby amended to read as follows:

9-340B. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS, INVESTIGATORY RECORDS OF AGENCIES, WORKER'S COMPENSATION. The following records are exempt from disclosure:

(1) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(2) Juvenile records of a person maintained pursuant to chapter 5, title 20, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the juvenile who is thirteen (13) years of age or younger. If the juvenile is petitioned or charged with an offense which would be a criminal offense if committed by an adult, the name, offense of which the juvenile was petitioned or charged and disposition of the court shall be subject to disclosure as provided in section 20-525, Idaho Code. Additionally, facts contained in any records of a juvenile maintained under chapter 5, title 20, Idaho Code, shall be furnished upon request to any school district where the juvenile is enrolled or is seeking enrollment.

(3) (a) 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.

(b) Operation manuals of county jails. "Operation manuals" are those internal documents of any county jail that define the procedures utilized to maintain security within the jail.

(4) Voting records of the sexual offender classification board. In accordance with section 18-8315, Idaho Code, the written record of the vote to classify an offender as a violent sexual predator by each board member in each case reviewed by that board member shall be exempt from disclosure to the public and shall be made available upon request only to the governor, the chairman of the senate judiciary and rules committee, and the chairman of the house of representatives judiciary, rules and administration committee, for all lawful purposes.

(5) Records of the sheriff or department of law enforcement received or maintained pursuant to section 18-3302, Idaho Code, relating to an applicant or licensee.

(6) Records of investigations prepared by the department of

health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

(7) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(8) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(9) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction.

(10) Records of investigations compiled by the commission on aging involving vulnerable adults, as defined in section 18-1505, Idaho Code, alleged to be abused, neglected or exploited.

Approved March 24, 1999.

CHAPTER 309
(S.B. No. 1096)

AN ACT

RELATING TO SPECIAL LICENSE PLATES AND CARDS FOR PERSONS WITH A DISABILITY; AMENDING SECTION 49-403, IDAHO CODE, TO PROVIDE A CORRECT

CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 49-410, IDAHO CODE, TO REMOVE THE FEE REQUIRED FOR MOTOR VEHICLE SPECIAL ACCESSIBLE CARDS FOR THE DISABLED AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 49-403, Idaho Code, be, and the same is hereby amended to read as follows:

49-403. DISABLED VETERAN -- LICENSE PLATES. No fee shall be charged for the registration or reregistration of a motor vehicle owned by a veteran who has established his rights to benefits under the provisions of Public Law 662, 79th Congress, as amended, and Public Law 187, 82nd Congress, as amended. No fee shall be charged for the registration or reregistration of a motor vehicle owned by a veteran, who is at the time of the registration or reregistration receiving compensation from the veterans administration or in lieu thereof, from any of the armed forces of the United States, for one hundred per cent percent (100%) service-connected disability or for any of the following specific disabilities: Loss or permanent loss of use of one (1) or both feet; loss or permanent loss of use of one (1) or both hands; loss of sight in both eyes or permanent impairment of vision in both eyes to the degree as to constitute virtual blindness. These provisions shall be considered applicable not only as to the vehicle originally purchased under this authorization, but also as to any vehicle subsequently purchased and owned by the same veteran, so long as the privilege shall not extend to more than one (1) vehicle at a time. Special license plates shall be issued for such a vehicle, identified by the inscription "D.V.", and a separate number series shall be used to further identify the license plates so issued. These license plates shall not be issued by the counties but shall be issued by the department. The plates shall be displayed in accordance with the procedure applicable to license plates set forth in section 49-428, Idaho Code. A vehicle displaying plates issued in accordance with the provisions of this section shall be afforded the same privileges specified in section 49-410(87), Idaho Code.

SECTION 2. That Section 49-410, Idaho Code, be, and the same is hereby amended to read as follows:

49-410. SPECIAL LICENSE PLATES AND CARDS FOR PERSONS WITH A DISABILITY -- PARKING PRIVILEGES -- CARDS FOR CERTAIN TEMPORARILY DISABLED PERSONS. (1) Any person with a disability as defined in section 49-117, Idaho Code, or any parent or guardian of a dependent child with a disability as defined in section 49-117, Idaho Code, without regard to the age of the dependent child, shall be eligible for the use of special license plates bearing the international accessible symbol, for any vehicle owned by such person or owned by a qualified parent or guardian, but excluding any commercial vehicle with a registered maximum gross weight over sixteen thousand (16,000) pounds.

(2) Registration and license plate fees for vehicles owned by a person with a disability or qualified parent or guardian of a depend-

ent child with a disability, shall be as provided, respectively, in sections 49-402, 49-434(1) and 49-450, Idaho Code. Nothing in this section shall be construed as abrogating provisions of section 49-445, Idaho Code. The use of the special card issued under the provisions of subsection (4) of this section, shall not exempt the owner of a motor vehicle from otherwise properly registering and licensing the motor vehicle.

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



International Accessible Symbol

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

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

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

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

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

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

(6) Any person or business issued a special card shall affix the special card to a motor vehicle in a conspicuous place designated by the department. The card shall bear distinguishing marks, letters or numerals indicating the vehicle is utilized by a permanently disabled person. When the card is affixed to a motor vehicle and the motor vehicle is transporting a person with a disability, special parking privileges are granted as provided in subsection (87) of this section.

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

(87) Any motor vehicle displaying special license plates for a person with a disability, without regard to the state of residence or displaying the special card provided in subsections (54) and (98) of this section, shall be allowed to park for unlimited periods of time in parking zones or areas which are otherwise restricted as to the length of time parking is permitted, and to park in any public parking space with metered parking without being required to pay any parking meter fee. The provisions of this subsection shall not be applicable to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles.

(98) Any person who shall submit satisfactory proof to the department that he is so temporarily disabled as to be unable to move without the aid of crutches or a wheelchair, shall be entitled to receive for one (1) motor vehicle only, a special card to be affixed to a motor vehicle in a conspicuous place designated by the department, bearing distinguishing marks, letters or numerals indicating that the vehicle is utilized by a temporarily disabled person. This special temporary card shall expire six (6) months from the date of issuance, or sooner as specified by the department on the card. ~~The fee for a temporary card shall be five dollars--(\$5.00);--two--dollars--(\$2.00)--of--which--shall--be--retained--by--the--county--and--credited--to--the--county--current--expense--fund;--and--three--dollars--(\$3.00)--of--which--shall--be--transmitted--to--the--state--treasurer--for--deposit--in--the--state--highway--account;--When--the--card--is--issued--by--the--department--the--five--dollars--(\$5.00)--shall--be--deposited--in--the--state--highway--account;--~~

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

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

Approved March 24, 1999.

CHAPTER 310
(S.B. No. 1102)

AN ACT

RELATING TO THE BOARD OF NURSING; AMENDING SECTION 54-1403, IDAHO CODE, TO INCREASE THE LENGTH OF A TERM OF APPOINTMENT TO THE BOARD, TO INCREASE THE NUMBER OF CONSECUTIVE TERMS THAT CAN BE SERVED AND TO INCREASE THE COMPENSATION FOR MEMBERS OF THE BOARD AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-1403, Idaho Code, be, and the same is hereby amended to read as follows:

54-1403. BOARD OF NURSING. (1) Appointment, Removal and Term of Office. There is hereby created within the department of self-governing agencies the board of nursing for the state of Idaho composed of nine (9) members appointed by the governor. Membership of the board shall consist of the following:

- (a) ~~f~~Five (5) persons licensed to practice professional nursing in Idaho, of whom three (3) shall be educated at the associate degree level provided that one (1) of these may be a diploma nurse, and two (2) of whom shall be educated at the baccalaureate, master's or doctoral level;
- (b) ~~t~~Two (2) persons licensed to practice practical nursing in Idaho;
- (c) ~~o~~One (1) person licensed as an advanced practice nurse; and
- (d) ~~o~~One (1) person who is a lay person to health care occupations.

In making appointments to the board, consideration shall be given to the board's responsibility in areas of education and practice. Members of the board of nursing and of the advisory council for licensed practical nurses holding office under prior law on the effective date of this act shall serve as members of the board created herein until expiration of their respective terms and, as those terms expire or become vacant, the governor shall appoint such other persons as will constitute a complete board as herein prescribed. The two (2) members appointed to reach the full membership provided herein shall be persons licensed to practice professional nursing educated at the associate degree level. Persons may be reappointed to the board so long as they meet the qualifications of the position to which they were originally appointed. In the event that a member has attained an additional degree of education, they may not be reappointed to represent the board position designated for another specific degree of education. Upon expiration of any term or creation of any vacancy, the board shall notify the governor thereof, who then shall make such appointment or fill such vacancy within sixty (60) days. Appointments shall be for terms of ~~three~~ four (34) years except appointments to vacancies which shall be for the unexpired term being filled. No member shall be appointed for more than ~~two~~ three (23) consecutive terms. The governor may remove any member from the board for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

(2) Qualifications of ~~m~~Members. No person is qualified for appointment hereunder unless that person is a citizen of the United States and a resident of the state of Idaho. Members required to be licensed hereunder shall not be qualified for appointment to the board unless actively engaged in some field of nursing in Idaho at the time of appointment. No person is qualified for appointment as the lay member of the board if the person or his spouse is licensed in any health occupation; is an employee, officer or agent of or has any financial interest in any health care facility, institution, or association or

any insurance company authorized to underwrite health care insurance; or is engaged in the governance and administration of any health care facility, institution or association.

(3) Conduct of bBusiness. The board shall meet at such times as required to conduct the business of the board and shall annually elect from its members a chairman, vice chairman and such other officers as may be desirable. Five (5) members shall constitute a quorum and the vote of a majority of members present at a meeting wherein a quorum is present shall determine the action of the board. Each member of the board shall be compensated as provided by section 59-509(gh), 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 24, 1999.

CHAPTER 311
(S.B. No. 1110, As Amended)

AN ACT

RELATING TO THE STATE BOARD OF CORRECTION AND THE COMMISSION OF PARDONS AND PAROLE; AMENDING SECTION 20-210, IDAHO CODE, TO PROVIDE THAT THE GOVERNOR SHALL APPOINT THE MEMBERS OF THE COMMISSION AND MAY REMOVE MEMBERS OF THE COMMISSION, AND TO PROVIDE FOR MEETINGS WITH THE BOARD OF CORRECTION TO BE HELD AS NEEDED; AMENDING SECTION 59-904, IDAHO CODE, TO PROVIDE FOR APPOINTMENT AND THE FILLING OF A VACANCY OF THE EXECUTIVE DIRECTOR OF THE COMMISSION OF PARDONS AND PAROLE AND TO PROVIDE FOR THE APPOINTMENT OF AND THE FILLING OF VACANCIES ON THE COMMISSION; AMENDING SECTION 20-212, IDAHO CODE, TO PROVIDE THAT RULES OF THE BOARD OF CORRECTION AND DEPARTMENT OF CORRECTION SHALL BE MADE IN ACCORDANCE WITH CERTAIN PROCEDURES, TO DEFINE "RULE" AND TO PROVIDE FOR LEGISLATIVE REVIEW; AMENDING CHAPTER 2, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-201, IDAHO CODE, TO CREATE A DEPARTMENT OF CORRECTION; AMENDING SECTION 20-201, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE THAT THE BOARD OF CORRECTION SHALL BE THE CONSTITUTIONAL BOARD OF CORRECTION AND TO PROVIDE THAT THE BOARD OF CORRECTION MAY TRANSFER TO THE COMMISSION OF PARDONS AND PAROLE ANY AND ALL AUTHORITY AND POWER AS IT DEEMS NECESSARY TO FULFILL THE DUTIES, RESPONSIBILITIES AND INTENT OF THE CORRECTION ACT AND OTHER DUTIES IMPOSED UPON IT BY LAW; DECLARING AN EMERGENCY AND PROVIDING FOR APPLICATION.

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 -- QUALI-

FICATIONS -- TERMS -- SALARY -- STAFF. The board governor 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. The members shall serve at the pleasure of the board governor 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~~ Members on the commission on the effective date of this act, shall serve out the remainder of their terms; thereafter, as members' terms expire, the governor shall reappoint them or appoint new members to serve terms of three (3) years; vacancies in the commission for unexpired terms shall be by appointment by the board governor 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 and the board may meet as necessary to exchange such information to enable each to effectively carry out their respective duties.~~

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 governor will liberally allow the reasonable payment for services of such technical and professional advice and consultation as the commission may require. The board governor 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 governor. 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 governor. The executive director shall also have such other duties and responsibilities as the board governor shall assign.

SECTION 2. 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,
Executive director of the commission of pardons and parole,
 The state historic preservation officer,
 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,
Members of the commission of pardons and parole.

(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 pre-

scribed 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 3. That Section 20-212, Idaho Code, be, and the same is hereby amended to read as follows:

20-212. RULES ~~AND--REGULATIONS~~ -- AUTHORITY OF BOARD. (1) The state board of correction shall make all necessary rules and--regulations to carry out the provisions of this act chapter not inconsistent with express statutes or the state constitution. They board shall fix the time and place of meetings, the order of business, the form of records to be kept, the reports to be made, and all other regulations rules necessary to the efficient management and control of the state penitentiary and all properties used in connection therewith. All rules of the board shall be subject to review of the legislature pursuant to sections 67-454, 67-5291 and 67-5292, Idaho Code, but no other provisions of chapter 52, title 67, Idaho Code, shall apply to the board, except as otherwise specifically provided by statute. When making rules required by this section, the board or the department shall submit the rules to the office of the state administrative rules coordinator, in a format suitable to the office of the state administrative rules coordinator as provided in section 67-5202, Idaho Code, and the board or department shall pay all the fees provided in

section 67-5205, Idaho Code. The office of the state administrative rules coordinator is authorized and shall publish the board or department's rules in the administrative bulletin. Additionally, whenever the board or department desires to amend, modify or repeal any of its rules, it shall follow the procedure provided in this section. All rules, or the amendment or repeal of rules shall be effective thirty (30) days after the date of publication by the office of the administrative rules coordinator. If the board determines that the rules need to be effective at a sooner date, they shall issue a proclamation indicating that the public health, safety and welfare is in jeopardy and, if the governor agrees, the rules shall be effective upon the governor signing the proclamation.

(2) "Rule" as used in this section means the whole or a part of the board of correction or department of correction's statement of general applicability that has been promulgated in compliance with the provisions of this section and that implements, interprets or prescribes:

(a) Law or policy, or

(b) The procedure or practice requirements of the board or department. The term includes the amendment, repeal, or suspension of an existing rule, but does not include:

(i) Statements concerning only the internal management or internal personnel policies of an agency and not affecting private rights of the public or procedures available to the public; or

(ii) Declaratory rulings issued pursuant to statute or the board's rules; or

(iii) Intra-department memoranda; or

(iv) Any written statements given by the department or board which pertain to an interpretation of a rule or to the documentation of compliance with a rule.

(3) At the same time that the proclamation of rulemaking is filed with the coordinator, the board or department shall provide the same notice, accompanied by the full text of the rule under consideration in legislative format, as well as a statement of the substance of the intended action, to the director of legislative services. If the rulemaking is based upon a requirement of federal law or regulation, a copy of that specific federal law or regulation shall accompany the submission to the director of legislative services. The director of legislative services shall analyze and refer the material under consideration to the germane joint subcommittee created in section 67-454, Idaho Code.

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

(5) The board or department shall prepare and deliver to the germane joint subcommittee a statement of economic impact with respect to

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

SECTION 4. That Chapter 2, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-201, Idaho Code, and to read as follows:

20-201. DEPARTMENT OF CORRECTION CREATED. There is hereby created the department of correction which shall consist of the board of correction and the commission of pardons and parole. The department of correction shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of state government.

SECTION 5. That Section 20-201, Idaho Code, be, and the same is hereby amended to read as follows:

20-201A. BOARD CREATED -- APPOINTMENT -- NONPARTISAN -- TERMS -- VACANCIES -- DELEGATION OF AUTHORITY. (1) There is hereby created a nonpartisan board of three (3) members to be known as the state board of correction, referred to in this chapter as the board, appointed by the governor to exercise the duties imposed by law. The board shall be the constitutional board of correction prescribed by section 5, article X, of the constitution of the state of Idaho. Not more than two (2) members shall belong to the same political party. ~~The terms of the first members shall expire as follows: one (1) member on January 1, 1971; one (1) member on January 1, 1973; one (1) member on January 1, 1975.~~ Thereafter a Any person appointed a member of the board shall hold office for six (6) years. Vacancies in the membership of the board shall be filled in the same manner in which the original appointments are made.

~~(2) The board shall be the constitutional board of correction prescribed by section 5, article X, of the constitution of the state of Idaho.~~

~~(3) The board shall exercise its constitutional and statutory authority and functions through the instrumentality of a department of correction, which is hereby created, and which shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.~~

(4) The board may delegate transfer to the commission and the director of pardons and parole any and all authority and power as it deems necessary to fulfill the duties, responsibilities and intent of this chapter and the other duties imposed upon it by law.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, provided however, that rules and procedures of the Board of Correction and the Department of Cor-

rection in effect on the effective date of this act shall remain in force and effect without publication under Section 20-212, Idaho Code, until the adjournment of the Second Regular Session of the Fifty-fifth Idaho Legislature, at which time any rules or procedures that have not been published in the Administrative Bulletin and have not been adopted, have not been submitted to the rules review subcommittees of the legislature and have not been reviewed by the Legislature shall be null, void and of no force and effect. Any rules or amendments to rules adopted after the effective date of this act by the Board of Correction or Department of Correction which qualify under the definition of a rule pursuant to Section 20-212, Idaho Code, shall be promulgated according to the procedures in that section. Additionally, any moneys appropriated in fiscal year 1999 or 2000 to the Board of Correction or Department of Correction and earmarked for the Commission of Pardons and Parole shall remain with the Commission of Pardons and Parole and may be expended by the Commission in a lawful manner. The State Controller shall ensure that the Commission of Pardons and Parole retains the money earmarked for them.

Approved March 24, 1999.

CHAPTER 312
(S.B. No. 1112)

AN ACT

RELATING TO DOGS USED IN LAW ENFORCEMENT; AMENDING SECTION 25-2808, IDAHO CODE, TO CLARIFY THAT THE STATE OF IDAHO, A CITY OR A COUNTY OR A PEACE OFFICER EMPLOYED BY ANY OF THEM SHALL NOT BE CIVILLY OR CRIMINALLY LIABLE FOR THE USE OF DOGS USED IN LAW ENFORCEMENT ACTIVITIES IF CERTAIN ACTIVITIES OCCUR; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 25-2808, Idaho Code, be, and the same is hereby amended to read as follows:

25-2808. DOGS USED IN LAW ENFORCEMENT. Neither the state of Idaho, nor any city or county, nor any peace officer employed by any of them, shall be criminally liable under the provisions of section 25-2805, Idaho Code, or civilly liable in damages for injury committed by a dog when: (1) the dog has been trained to assist in law enforcement; and (2) the injury occurs while the dog is reasonably and carefully being used in the apprehension, arrest or location of a suspected offender or in maintaining or controlling the public order.

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, 1999.

CHAPTER 313
(S.B. No. 1133)

AN ACT

RELATING TO BAIL PENDING APPEAL; AMENDING SECTION 19-3941, IDAHO CODE, TO DELETE THE LIMITATION ON THE AMOUNT OF BAIL WHICH THE COURT MAY FIX TO RELEASE THE PARTY APPEALING FROM CUSTODY PENDING APPEAL OR TO STAY PROCEEDINGS UNDER JUDGMENT AND TO PROVIDE FOR A NO CONTACT ORDER TO STAY IN PLACE ABSENT A FINDING OF THE JUDGE.

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

SECTION 1. That Section 19-3941, Idaho Code, be, and the same is hereby amended to read as follows:

19-3941. BAIL PENDING APPEAL. The party appealing may, at any time thereafter, if he desires to be released from custody during the pendency of the appeal, or desires a stay of proceedings under the judgment until the appeal be disposed of, enter into a recognizance, with two (2) sufficient sureties to be approved by the judge or justice, in an amount to be fixed by the judge or justice, ~~but not exceeding one thousand dollars (\$1,000) in any case,~~ for the payment of any judgment, fine and costs that may be awarded against him on the appeal, and that he will faithfully prosecute the same and render himself in execution of any judgment or order rendered or entered against him in the district court. Any no contact order in place at the time of appeal shall remain in place during the pendency of appeal and shall be a condition of any bond posted, unless the judge orders otherwise.

Approved March 24, 1999.

CHAPTER 314
(S.B. No. 1134, As Amended, As Amended in the House)

AN ACT

RELATING TO THE PROCEDURES INVOLVED IN THE ADOPTION PROCESS; AMENDING SECTION 16-2005, IDAHO CODE, TO REVISE CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED, TO REVISE PROCEDURES AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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 mMagistrate) of the District eCourt of the Judi-

cial 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; or
- (3) The court shall accept a termination or relinquishment from a sister state that has been ordered by a court of competent jurisdiction under like proceedings; or in any other manner authorized by the laws of a sister state. In a state where the father has failed to file notice of claim to paternity and willingness to assume responsibility as provided for pursuant to the laws of such state, and where such failure constitutes an abandonment of such child and constitutes a termination or relinquishment of the rights of the putative father, the court shall accept such failure as a termination in this state without further hearing on the merits, if the court is satisfied that such failure constitutes a termination or relinquishment of parental rights pursuant to the laws of that state.

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.

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, 1999.

CHAPTER 315

(S.B. No. 1161, As Amended, As Amended in the House)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE CORRECT REFERENCES AND TO CLARIFY DEPOSIT OF REVENUES FROM SPECIAL LICENSE PLATE PROGRAMS; AMENDING SECTION 49-417, IDAHO CODE, TO PROVIDE FOR DEPOSIT OF FEES CHARGED FOR IDAHO WILDLIFE SPECIAL LICENSE PLATES; AMENDING SECTION 49-417A, IDAHO CODE, TO PROVIDE FOR DEPOSIT OF FEES CHARGED FOR IDAHO TIMBER SPECIAL LICENSE PLATES; AMENDING SECTION 49-418A, IDAHO CODE, TO REDUCE THE FEE CHARGED FOR IDAHO PUBLIC COLLEGE AND UNIVERSITY LICENSE PLATES AND TO PROVIDE FOR DEPOSIT OF FEES CHARGED FOR IDAHO PUBLIC COLLEGE AND UNIVERSITY LICENSE PLATES; AMENDING SECTION 49-419, IDAHO CODE, TO PROVIDE FOR DEPOSIT OF FEES CHARGED FOR IDAHO SNOWSKIER LICENSE PLATES; AND AMENDING SECTION 49-420, IDAHO CODE, TO PROVIDE FOR DEPOSIT OF FEES CHARGED FOR IDAHO SNOWMOBILE LICENSE PLATES.

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

SECTION 1. 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.

way 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, 49-418A, 49-419 and 49-420, 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 as specified by law for each program.

SECTION 2. That Section 49-417, Idaho Code, be, and the same is hereby amended to read as follows:

49-417. IDAHO WILDLIFE SPECIAL PLATES. (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for any one (1) of two (2) Idaho wildlife special license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over sixteen thousand (16,000) pounds.

(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~~ Ten dollars (\$2510.00) of the initial fee and ~~fifteen~~ ten dollars (\$150.00) 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~~ Twenty-five dollars (\$~~10~~25.00) of each initial fee and ~~ten~~ fifteen dollars (\$105.00) 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 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) 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 Idaho fish and wildlife foundation.

(4) Sample Idaho wildlife plates may be purchased for a fee of thirty dollars (\$30.00), ~~twelve ten~~ dollars (\$120.00) of which shall be deposited in the state highway account to be used to fund the cost of administration of this special license plate program. ~~Eighteen~~ Twenty dollars (\$~~180~~20.00) of 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 wildlife program.

SECTION 3. That Section 49-417A, Idaho Code, be, and the same is hereby amended to read as follows:

49-417A. IDAHO TIMBER SPECIAL PLATES. (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for Idaho timber special license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over sixteen thousand (16,000) pounds.

(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~~ Ten dollars (\$~~25~~10.00) of the initial fee and ~~fifteen ten~~ dollars (\$~~150~~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. ~~Fen~~ Twenty-five dollars (\$~~1025~~25.00) of each initial fee and ~~ten~~ fifteen dollars (\$~~105~~15.00) of each renewal fee shall be deposited by the state treasurer in the department of lands fund for use in reforestation activities on state lands, provided however, that prior to the beginning of any fiscal year, the state board of land commissioners may agree that funds made available under this section to the department of lands for the coming year would better further reforestation objectives of the management and conservation of forest resources on public and private lands in the state if expended for

educational efforts set forth in this section.

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 Idaho timber license plate shall be of a color and design acceptable to the members of the Idaho forest products commission and approved by the department, utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the director of the department of lands from funds appropriated to that department.

(4) Sample Idaho timber plates may be purchased for a fee of thirty dollars (\$30.00), ~~twelve ten~~ dollars (\$120.00) of which shall be deposited in the state highway account and ~~eighteen twenty~~ dollars (\$1820.00) of which shall be deposited in the department of lands fund for use in reforestation activities or educational efforts as set forth in this section.

(5) ~~Ten Twenty-five~~ dollars (\$1025.00) of each initial fee and ~~ten fifteen~~ dollars (\$105.00) of each renewal fee of each timber special license plate, and ~~eighteen twenty~~ dollars (\$1820.00) for each sample timber special license plate, shall be deposited with the state treasurer and credited to the department of lands. Funds so deposited and subsequently directed by the state board of land commissioners for educational efforts as set forth in this section shall be expended as agreed by the state board of land commissioners upon recommendations developed jointly by the department of lands and the Idaho forest products commission. Such efforts may include signs or other appropriate means designed to help build public understanding of reforestation or the management and conservation of forest resources on public and private lands in Idaho.

SECTION 4. That Section 49-418A, Idaho Code, be, and the same is hereby amended to read as follows:

49-418A. IDAHO PUBLIC COLLEGE AND UNIVERSITY PLATES. (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for special plates featuring one (1) of Idaho's public colleges or universities. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over sixteen thousand (16,000) pounds. Availability of Idaho public college and university special license plates for other vehicles may be authorized by rule of the board.

(2) In addition to the regular operating fee, the applicant shall be charged a fee of ~~fifty thirty-five~~ dollars (\$350.00) for the initial issuance of the plates, and ~~fifty twenty-five~~ dollars (\$250.00) upon each succeeding annual registration. ~~Twenty-five Ten~~ dollars (\$2510.00) of the initial fee and ~~fifteen ten~~ dollars (\$150.00) of the renewal fee shall be deposited in the state highway account to be used by the department to fund highway, road and bridge construction projects and to fund the cost of administration of this special license plate program. The department shall transfer ~~twenty-five~~ dollars (\$25.00) of the initial fee and ~~thirty-five fifteen~~ dollars (\$315.00)

of the renewal fee for deposit to the institution designated on the license plate.

(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 after receipt of new registration from the department.

(4) All special college and university plates 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 and shall indicate the participating institution.

(a) The standard red, white and blue graphic shall be used, except that the word "Idaho" and "Famous Potatoes" shall appear on every plate, the identification of county shall be omitted, and the inscription "Scenic Idaho" may be omitted.

(b) Each public college or university that chooses to participate in this program shall provide that portion of the design which features the particular institution and such design shall be acceptable to the president of the institution and the state board of education and board of regents of the university of Idaho.

Each version of the special public college and university plate featuring the participating public college or university shall be approved by the department, utilizing a numbering system as determined by the department. Initial costs of the plate program, including the cost of plate design, shall be paid by the participating public college or university.

(5) The state board of education and board of regents of the university of Idaho shall adopt rules to account for receipt and distribution of revenues accruing to participating public colleges and universities from the special license plate program. Revenues from the special plate program shall be used to:

(a) Fund scholarships for Idaho residents attending that college or university.

(b) Match funds contributed in equal amounts from nonstate sources for academic programs, provided that such expenditures shall be subject to prior approval by the state board of education and board of regents of the university of Idaho.

(6) Sample public college and university license plates may be purchased from the department for a fee of thirty-five dollars (\$350.00), ~~twenty~~ ten dollars (\$120.00) of which shall be retained by the department for deposit to the state highway account and ~~twenty-three~~ dollars (\$230.00) shall be transferred by the department to the college or university designated on the license plate. No additional fee shall be charged for personalizing sample plates.

SECTION 5. That Section 49-419, Idaho Code, be, and the same is hereby amended to read as follows:

49-419. IDAHO SNOWSKIER PLATES. (1) On and after January 1, 1999, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and upon department approval receive special Idaho

snowskier license plates in lieu of regular license plates. Availability of Idaho snowskier license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of the plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. ~~Twenty-five~~ Ten dollars (~~\$25~~10.00) of the initial fee and ~~fifteen~~ ten dollars (~~\$15~~10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. ~~Ten~~ Twenty-five dollars (~~\$10~~25.00) of each initial fee and ~~ten~~ fifteen dollars (~~\$10~~15.00) of each renewal fee shall be deposited by the state treasurer in the division of tourism fund within the department of commerce for use in the 2002 Olympic winter games strategy program and for general promotion of Idaho's ski industry.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho snowskier license plate shall be of a color and design comparable to the standard issue of license plates with blue numerals on a red, white and blue background, except that the word "Idaho" shall appear on each plate and the county designator shall be omitted to provide for distinguishing designs and slogans, acceptable to the Idaho ski areas association, to be added to the plate. The design shall be approved by the department and shall utilize a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho ski areas association.

(5) Sample Idaho snowskier license plates may be purchased for a fee of thirty dollars (\$30.00), ~~twelve~~ ten dollars (~~\$12~~10.00) of which shall be deposited in the state highway account and ~~eighteen~~ twenty dollars (~~\$18~~20.00) of which shall be deposited in the division of tourism fund within the department of commerce for use in the 2002 Olympic winter games strategy program and for general promotion of Idaho's ski industry. No additional fee shall be charged for personalizing sample plates.

SECTION 6. That Section 49-420, Idaho Code, be, and the same is hereby amended 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~~ Ten dollars (~~\$25~~10.00) of the initial fee and ~~fifteen~~ ten dollars (~~\$15~~10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. ~~Ten~~ Twenty-five dollars (~~\$10~~25.00) of each initial fee and ~~ten~~ fifteen dollars (~~\$10~~15.00) 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~~ ten dollars (~~\$12~~10.00) of which shall be deposited in the state highway account and ~~eighteen~~ twenty dollars (~~\$18~~20.00) 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.

Approved March 24, 1999.

CHAPTER 316
(S.B. No. 1163)

AN ACT

RELATING TO ANNUAL REGISTRATION OF MOTOR VEHICLES; AMENDING SECTION 49-401A, IDAHO CODE, TO CORRECT A REFERENCE TO IDAHO CODE; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE THAT SPECIFIED VEHICLES WEIGHING EIGHT THOUSAND POUNDS OR LESS SHALL BE REGISTERED BASED ON AGE OF THE VEHICLE, TO PROVIDE CORRECT REFERENCES TO IDAHO CODE AND TO CLARIFY DEPOSIT OF REVENUES FROM SPECIAL LICENSE PLATE PROGRAMS; AMENDING SECTIONS 49-404A, 49-407 AND 49-408, IDAHO CODE, TO PROVIDE CORRECT REFERENCES TO IDAHO CODE; AMENDING SECTION 49-409, IDAHO CODE, TO PROVIDE CORRECT REFERENCES TO IDAHO CODE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-414, IDAHO

CODE, TO PROVIDE CORRECT REFERENCES TO IDAHO CODE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 49-416 AND 49-418, IDAHO CODE, TO PROVIDE CORRECT REFERENCES TO IDAHO CODE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-401A, Idaho Code, be, and the same is hereby amended to read as follows:

49-401A. OWNER TO SECURE REGISTRATION FROM A COUNTY ASSESSOR OR THE DEPARTMENT. (1) Every owner of a motor vehicle, trailer or semi-trailer 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 (53), 49-402A, 49-402B 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. 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-six thousand (26,000) 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) Commercial, farm and noncommercial vehicles of any weight doing strictly an intrastate business may be registered by the county assessor by mutual agreement between the department and the county.

SECTION 2. 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).

(53) 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.

(64) Registration fees shall not be subject to refund.

(75) 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.

(86) 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, 49-419 and 49-420, 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). For special plates issued pursuant to section 49-418A, Idaho Code, the initial program fee and the annual renewal fee shall be fifty dollars (\$50.00). 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~~ as specified by law for each program.

SECTION 3. That Section 49-404A, Idaho Code, be, and the same is

hereby amended to read as follows:

49-404A. MEMBERS OF THE ARMED FORCES RESERVE -- SPECIAL PLATES.

(1) Any active member of the armed forces reserves of the United States who is the owner of a vehicle registered under section 49-402(1) or section 49-434(1), Idaho Code, may, upon application to the department, register not more than two (2) motor vehicles and receive for each vehicle special license plates in lieu of regular numbered plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over sixteen thousand (16,000) pounds. The special license plates shall be designated by the department with the word "RESERVIST" centered along the bottom edge and be numbered in sets of two (2) with a different number following appropriate letters as follows: United States Army Reserve: Army (number); United States Navy Reserve: Navy (number); United States Marine Corps Reserve: USMC (number); United States Air Force Reserve: USAF (number); and United States Coast Guard Reserve: USCG (number). Proof of being an active member in the United States armed forces reserves must be furnished to the department before special plates will be issued. Special license plates issued under this section shall be issued under the staggered registration process provided for in section 49-402(1), Idaho Code, or the annual registration in section 49-434(1), Idaho Code.

(2) Any branch of the armed forces reserves of the United States shall, prior to an individual's discharge from duty in that branch of the armed forces reserve, require that the special armed forces reserve license plates either be turned back to the department or exchanged for other proper license plates as a condition of discharge.

(3) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee specified in section 49-402(8), Idaho Code. 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 this special license plate program which is provided to the public as a personal alternative to the standard license plate requirement. When a plate holder transfers or assigns his title or interest in the vehicle registered under this section, the registration shall expire, but the special plates may be transferred to another vehicle upon payment of the required transfer fee. Special plates shall only be displayed after receipt of the new registration.

(4) The design and numbering scheme of the military reservist special plate shall be coordinated by the department with representatives of the armed forces reserves. However, the department shall have the final approval of the plate design and numbering scheme to ensure conformity within existing issues of plates and to contain costs within the limit of the fees received from applicants.

SECTION 4. That Section 49-407, Idaho Code, be, and the same is hereby amended to read as follows:

49-407. YEAR OF MANUFACTURE PLATE. Pursuant to rules of the department, any person who is the owner of a motor vehicle thirty (30)

years or older which is registered under section 49-402(1), ~~or--(2)~~, Idaho Code, or section 49-434(1), Idaho Code, may display on the rear of the vehicle an authentic Idaho plate manufactured in the same year as the vehicle. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over sixteen thousand (16,000) pounds.

In addition to the regular registration fees required in sections 49-402(1), ~~and--(2)~~, and 49-434(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee specified in section 49-402~~(8)~~, Idaho Code.

SECTION 5. That Section 49-408, Idaho Code, be, and the same is hereby amended to read as follows:

49-408. STREET ROD. (1) Any motor vehicle manufactured prior to the year 1949, or designed and manufactured to resemble such a vehicle and which has been certified as a street rod may be registered as a street rod under the provisions of this section. However, the provisions of this section shall not apply to any vehicle with a registered maximum gross weight over sixteen thousand (16,000) pounds.

(2) Any street rod shall have all equipment in operating condition which was specifically required by law as a condition for its first sale after manufacture. No law requiring any particular equipment or specifying any standards to be met by motor vehicles shall apply to street rods unless it so specifically states.

(3) Upon receipt of an application on a form prescribed by the department for a special street rod automobile plate, accompanied by other documentation required in this section, the department shall issue to the applicant a special street rod automobile plate which shall be displayed on the rear of the vehicle. The registration certificate need not specify the weight of the street rod, and the plate issued shall bear no date but shall bear the inscription "Street Rod," "Idaho," a picture of a 1929 highway roadster, and the registration number issued for the street rod, and the plate shall be valid upon annual renewal under section 49-402 or 49-434(1), Idaho Code, as long as the vehicle is in existence. The plate will be issued for the applicant's use only for the particular vehicle, and in the event of a transfer of title, the transferor may hold the plate and transfer it to another qualifying street rod.

(4) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee specified in section 49-402~~(8)~~, Idaho Code.

(5) The department has the power to revoke any registration issued under this section for cause shown for failure of the applicant to comply with the provisions of this section.

SECTION 6. That Section 49-409, Idaho Code, be, and the same is hereby amended to read as follows:

49-409. PERSONALIZED LICENSE PLATES. (1) Any person who is the owner of a vehicle registered under section 49-402 or 49-434(1), Idaho Code, may apply to the department for personalized license plates in

lieu of regular numbered plates except that this provision shall not apply to a vehicle registered under section 49-434(1), Idaho Code, with a maximum gross weight over sixteen thousand (16,000) pounds or any vehicle registered under section 49-435, Idaho Code. In addition to the regular registration fees required in section 49-402(1), ~~(2)~~ ~~(3)~~ and (42), section 49-422, and section 49-434(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee specified in section 49-402(8), Idaho Code. The personalized license plates shall be of the same color and design as other license plates, and shall consist of numbers or letters, or any combination thereof, not exceeding seven (7) positions. No more than one (1) particular combination of letters and numbers shall be in existence at any one (1) time. The form for application of the plates will be as prescribed by the director ~~and~~ in who, at his discretion, may refuse to issue the plates.

(2) When personalized license plates are issued for a vehicle, the regular license plates for that vehicle belong to the registrant and may be transferred to another vehicle owned by the personalized plate applicant.

SECTION 7. That Section 49-414, Idaho Code, be, and the same is hereby amended to read as follows:

49-414. LEGISLATIVE LICENSE PLATES -- FEES. (1) Special legislative license plates shall be issued by the department upon application and payment of the required fees. Each legislator is eligible to register and receive special license plates for one (1) vehicle whose registered maximum gross weight does not exceed sixteen thousand (16,000) pounds. The registration period shall be for one (1) year, from January 1 through December 31, and may be renewed, as long as the legislator holds office. The plates shall bear either the inscription "House" or "Senate," shall contain a consecutive numbering from one (1) through the maximum number of members in each body with the numbers to be assigned by the speaker of the house of representatives and the president pro tempore of the senate, and shall otherwise comply with the provisions of section 49-443, Idaho Code.

(2) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee as specified in section 49-402(8), Idaho Code.

SECTION 8. That Section 49-416, Idaho Code, be, and the same is hereby amended to read as follows:

49-416. STATEHOOD CENTENNIAL LICENSE PLATES. (1) Statehood centennial license plates are available to owners of motor vehicles required to be registered under section 49-402(1) or ~~section 49-402(3)~~ or section 49-434(1), Idaho Code, upon application at a county assessor's office or at the department. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over sixteen thousand (16,000) pounds. Availability of statehood centennial plates for other classes of vehicle registrations shall be as authorized by rule of the department. In addition to the regular reg-

istration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee as specified in section 49-402~~(8)~~, Idaho Code. All revenues from such initial registration and annual renewal fees shall be deposited in the highway distribution account.

(2) The statehood centennial license plates shall be of a color and design approved by the department, utilizing a numbering system approved by the board. The statehood centennial license plates must be surrendered upon failure to pay the annual special fee and renewal fees.

(3) Any person who applies for statehood centennial license plates, may also apply for personalized numbers and/or letters on those plates, as provided for in section 49-409, Idaho Code.

SECTION 9. That Section 49-418, Idaho Code, be, and the same is hereby amended to read as follows:

49-418. VETERANS PLATES. (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for and upon department approval receive special veterans license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over sixteen thousand (16,000) pounds. Availability of veterans plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) Proof of being a current or former member of the United States armed forces must be furnished to the department before special veterans plates will be issued. Acceptable proof shall be a copy of form DD214 or an equivalent document or statement from the department of veterans affairs.

(3) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee specified in section 49-402~~(8)~~, Idaho Code, and the plate fee specified in section 49-450, Idaho Code.

(4) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(5) The veterans license plate design shall include the colors red, white and blue, shall designate one (1) of the five (5) branches of military service, and display either:

(a) The word "VETERAN" or

(b) The name of a conflict or war period recognized by the United States department of veterans affairs for the purpose of awarding federal veterans benefits as defined in 38 U.S.C. 101(11).

The license plate design shall comply with all applicable rules of the department, and shall include a separate and distinct numbering system. The design, color, and numbering system shall be subject to approval of the department.

SECTION 10. This act shall be in full force and effect on and after January 1, 2000.

Approved March 24, 1999.

CHAPTER 317
(S.B. No. 1164)

AN ACT

RELATING TO MOTOR VEHICLE DRIVER'S LICENSES; AMENDING SECTION 49-306, IDAHO CODE, TO PROVIDE FOR FOUR-YEAR AND AN EIGHT-YEAR CLASS D DRIVER'S LICENSE AND TO PROVIDE FOR DISTRIBUTION OF THE FEES; AMENDING SECTION 49-319, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF A FOUR-YEAR CLASS D DRIVER'S LICENSE TO PERSONS UNDER TWENTY-ONE YEARS OF AGE AND SIXTY-THREE YEARS OF AGE OR OLDER, TO PROVIDE FOR ISSUANCE OF AN OPTIONAL EIGHT-YEAR CLASS D DRIVER'S LICENSE TO PERSONS TWENTY-ONE THROUGH SIXTY-TWO YEARS OF AGE AND TO CLARIFY THAT RENEWAL OF DRIVER'S LICENSES BY MAIL IS LIMITED TO FOUR-YEAR DRIVER'S LICENSES; AMENDING SECTION 49-2444, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF AN OPTIONAL EIGHT-YEAR IDENTIFICATION CARD; AND PROVIDING AN EFFECTIVE DATE.

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, extension 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) Four-year Class D license \$20.50
- (c) Eight-year Class D license \$41.00
- (d) Class A, B, C instruction permit \$15.50
- (~~e~~) Class D instruction permit \$11.50
- (~~f~~) Duplicate driver's license or permit issued under section 49-318, Idaho Code \$11.50
- (fg) Driver's license extension issued under section 49-319, Idaho Code \$ 6.50
- (gh) License classification change (upgrade) \$15.50
- (hi) Endorsement addition \$11.50
- (~~i~~) Class A, B, C skills tests not more than \$55.00
- (~~j~~) Class D skills test \$15.00
- (kl) Motorcycle endorsement skills test \$ 5.00
- (~~m~~) Knowledge test \$ 3.00

- (mn) Seasonal driver's license \$23.50
- (no) One time motorcycle "M" endorsement \$11.50
- (op) Motorcycle endorsement instruction permit \$11.50
- (pq) Restricted driving permit \$35.00

(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 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.

(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 four-year 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, and ten dollars (\$10.00) from each eight-year class D driver's license, in the current expense fund; and
- (b) Deposit two dollars and fifty cents (\$2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and
- (c) Deposit an amount equal to three dollars (\$3.00) from each fee for a knowledge test in the current expense fund; and
- (d) Deposit an amount equal to five dollars (\$5.00) from each fee

for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the five dollar (\$5.00) fee;

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

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

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

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

(a) Two dollars (\$2.00) of each fee for a four-year driver's license or seasonal driver's license, and four dollars (\$4.00) of each fee for an eight-year class D driver's license, 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 four-year class D driver's license, and ten dollars and sixty cents (\$10.60) of each fee for an eight-year class D driver's license, shall be deposited in the driver training account; and

(g) Seven dollars and twenty cents (\$7.20) of each fee for a four-year class D driver's license, and fourteen dollars and forty cents (\$14.40) of each fee for an eight-year 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 four-

year D driver's license, and two dollars (\$2.00) of each fee for an eight-year class D driver's license, shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code.

(1) 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 not more than fifty dollars (\$50.00) of the skills test fee. A contractor administering a class A, B, or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) Thirty-five dollars (\$35.00) of each restricted driving permit shall be deposited in the state highway account.

(11) 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.

(12) The department may issue seasonal class B or C driver's licenses to drivers who:

(a) Have not violated the single license provisions of 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 2. That Section 49-319, Idaho Code, be, and the same is hereby amended to read as follows:

49-319. EXPIRATION AND RENEWAL OF DRIVER'S LICENSE. (1) Every Idaho driver's license issued to a driver under twenty-one (21) years of age and sixty-three (63) years of age or older shall expire on the licensee's birthday in the fourth year following the issuance of the driver's license. At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the driver's license shall expire either on the licensee's birthday in the fourth year or the eighth year following the issuance of the driver's license. Every driver's license that is not, as provided by law, suspended, revoked or disqualified in this state or any other jurisdiction shall be renewable on or before its expiration, but not more than twelve (12) months before, upon application, payment of the required

fee, and satisfactory completion of the required eyesight examination. No knowledge test shall be required for renewal of a driver's license, except for renewal of a hazardous material endorsement. Appropriate knowledge and skill tests shall be required for an upgrade in a driver's license class or an endorsement addition. In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(2) When a driver's license has been expired for less than twelve (12) months, the renewal of the driver's license shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the driver's license is expired for twelve (12) months or more, the applicant shall be required to take the knowledge, skills and vision test and the application shall expire on the licensee's birthday in the fourth year following issuance of the driver's license for drivers under twenty-one (21) years of age and drivers sixty-three (63) years of age or older. At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the renewed license shall expire either on the licensee's birthday in the fourth year or the eighth year following issuance.

(3) (a) If a driver's license has expired or will expire and the licensee is temporarily out-of-state except on active military duty, and the driver's license has not, as provided by law, been suspended, revoked, cancelled, denied, refused or disqualified, the licensee may request in writing on a form prescribed by the department an extension of the driver's license. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be less than a twelve (12) month period. If the department determines that an extension of the driver's license is necessary, it may issue a certificate of extension showing the date to which the expired driver's license is extended, and this certificate shall be attached to the expired driver's license. Certificates of extension are limited to one (1) per licensee.

(b) Upon returning to the state of Idaho, the licensee shall within ten (10) days, apply for a renewal of the expired driver's license and surrender the certificate of extension and the expired driver's license.

(c) A hazardous material endorsement cannot be extended.

(4) An Idaho driver's license issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four (4) years so long as active duty continues, if the driver's license is not suspended, denied, disqualified, cancelled or revoked, as provided by law, during the active duty, and the driver's license shall remain in full force and effect sixty (60) days following the date the holder is released from active duty.

(5) The department may use a mail renewal process for four-year class D licenses based on criteria established by rule.

(6) A seasonal driver's license is only valid for a one hundred eighty (180) day period from the date of issuance. Only one (1) sea-

sonal driver's license may be obtained in any twelve (12) month period, and may only be obtained twice in a driver's lifetime.

SECTION 3. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED -- FOUR-YEAR OR EIGHT-YEAR.

(1) The department shall issue an identification card which shall set forth the information contained in the application, in a form as prescribed by the department. All identification cards issued on or after January 1, 1993, shall not contain the applicant's social security number. An applicant's social security number shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Each card shall be issued a distinguishing number and shall bear upon it a color photograph of the applicant which shall be taken by the examiner at the time of application. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed.

No person shall receive an identification card unless and until he surrenders to the department all identification cards in his possession issued to him by Idaho or any other jurisdiction, or until he executes an affidavit that he does not possess an identification card.

A notation of "under 21 until (month, day, year)" and any other distinguishing printing of the words "under 21" on the identification card shall be made if applicable. The nonrefundable fee for an four-year identification card shall be seven dollars and fifty cents (\$7.50) of which five dollars (\$5.00) shall be retained by the county and credited to the current expense fund, and two dollars and fifty cents (\$2.50) shall be deposited in the state treasury to the credit of the highway distribution account. Every The nonrefundable fee for an eight-year identification card shall be fifteen dollars (\$15.00) of which ten dollars (\$10.00) shall be retained by the county and credited to the current expense fund, and five dollars (\$5.00) shall be deposited in the state treasury to the credit of the highway distribution account. At the option of the applicant, the identification card shall expire either on the cardholder's birthday in the fourth year or the eighth year following issuance of the card.

(2) Every identification card shall be renewable on or before its expiration, but not more than twelve (12) months before, and upon application and payment of the required fee.

(3) When an identification card has been expired for less than twelve (12) months, the renewal of the identification card shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the identification card is expired for more than twelve (12) months, the application shall expire, at the option of the applicant, on the applicant's birthday in the fourth year or the eighth year following reissuance of the identification card.

(4) A person possessing an identification card desiring to donate any or all organs or tissue in the event of death, pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, at the option of the donor may indicate this desire on the identification card by the imprinting of the word "donor" on the identification card.

(5) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(6) Whenever any person, after applying for or receiving an identification card, shall move from the address shown on the application or on the identification card issued, that person shall, within fourteen (14) days, notify the transportation department in writing of the old and new addresses.

(7) The department shall cancel any identification card upon determining that the person was not entitled to the issuance of the identification card, or that the person failed to give the required and correct information in his application or committed fraud in making the application. Upon cancellation, the person shall surrender the cancelled identification card to the department.

(8) If any person shall fail to return to the department the identification card as required, the department may direct any peace officer to secure its possession and return the identification card to the department.

SECTION 4. This act shall be in full force and effect on and after January 1, 2000.

Approved March 24, 1999.

CHAPTER 318
(S.B. No. 1169)

AN ACT

RELATING TO MOTOR VEHICLE DRIVER'S LICENSES AND IDENTIFICATION CARDS; AMENDING SECTION 49-306, IDAHO CODE, TO PROVIDE FEES FOR DRIVER'S LICENSES ISSUED BY AGE OF DRIVER, TO PROVIDE FOR DISTRIBUTION OF FEES FOR SUCH DRIVER'S LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-315, IDAHO CODE, TO PROVIDE DISTINGUISHING DRIVER'S LICENSES FOR PERSONS UNDER EIGHTEEN YEARS OF AGE AND FOR DRIVERS EIGHTEEN TO TWENTY-ONE YEARS OF AGE; AMENDING SECTION 49-319, IDAHO CODE, TO PROVIDE FOR EXPIRATION AND RENEWAL OF DRIVER'S LICENSES ISSUED TO DRIVERS UNDER EIGHTEEN YEARS OF AGE AND TO DRIVERS EIGHTEEN TO TWENTY-ONE YEARS OF AGE; AMENDING SECTION 49-2444, IDAHO CODE, TO PROVIDE FOR ISSUANCE, EXPIRATION, RENEWAL AND FEES FOR IDENTIFICATION CARDS FOR PERSONS UNDER EIGHTEEN YEARS OF AGE AND FOR PERSONS EIGHTEEN TO TWENTY-ONE YEARS OF AGE; AND PROVIDING AN EFFECTIVE DATE.

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, extension or driver's license shall be accompanied by the following fee, none of which is refundable:

- (a) Class A, B, C license with endorsements - 21 years and older \$24.50
- (b) Class A, B, C license with endorsements - under 21 years \$17.50
- (c) Class D license - under 18 years \$17.50
- (d) Class D license - 18 to 21 years \$17.50
- (e) Class D license - 21 years and older \$20.50
- (~~ef~~) Class A, B, C instruction permit \$15.50
- (~~dg~~) Class D instruction permit \$11.50
- (~~eh~~) Duplicate driver's license or permit issued under section 49-318, Idaho Code \$11.50
- (~~fi~~) Driver's license extension issued under section 49-319, Idaho Code \$ 6.50
- (~~gj~~) License classification change (upgrade) \$15.50
- (~~hk~~) Endorsement addition \$11.50
- (~~il~~) Class A, B, C skills tests not more than \$55.00
- (~~jm~~) Class D skills test \$15.00
- (~~kn~~) Motorcycle endorsement skills test \$ 5.00
- (~~lo~~) Knowledge test \$ 3.00
- (~~mp~~) Seasonal driver's license \$23.50
- (~~nq~~) One time motorcycle "M" endorsement \$11.50
- (~~or~~) Motorcycle endorsement instruction permit \$11.50
- (~~ps~~) Restricted driving permit \$35.00

(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 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 certi-

fied copy of his birth certificate and other satisfactory evidence to satisfy the issuing officer or the department.

(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; and

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

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

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

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

(a) Two dollars (\$2.00) of each fee for a driver's license or seasonal driver's license, and one dollar and fifty cents (\$1.50) of each fee charged for driver's licenses pursuant to subsections (1)(b), (c) and (d) of this section, 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, and ten dollars

- (\$10.00) of each fee charged for a license pursuant to subsection (1)(b) of this section, 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, and four dollars (\$4.00) of each fee charged for a license pursuant to subsections (1)(c) and (d) of this section, 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, and six dollars (\$6.00) of each fee charged for a license pursuant to subsections (1)(c) and (d) of this section, 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, and one dollar (\$1.00) of each fee charged for a license pursuant to subsections (1)(b), (c) and (d) of this section, shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code; and
- (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 not more than fifty dollars (\$50.00) of the skills test fee. A contractor administering a class A, B, or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.
- (10) Thirty-five dollars (\$35.00) of each restricted driving permit shall be deposited in the state highway account.
- (11) The department may issue seasonal class B or C driver's licenses that:
- Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;
 - Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;

- (c) May only be obtained twice in a driver's lifetime;
- (d) Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and
- (e) Will be valid only in conjunction with valid Idaho class D driver's licenses.

(12) The department may issue seasonal class B or C driver's licenses to drivers who:

- (a) Have not violated the single license provisions of 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 2. That Section 49-315, Idaho Code, be, and the same is hereby amended to read as follows:

49-315. LICENSES ISSUED TO DRIVERS. (1) The department shall issue to every qualifying applicant a distinguishing driver's license as applied for, which shall bear a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issuance, date of expiration, license class, endorsements, restrictions, and ~~"under 21 until (month, day, year)"~~, and ~~any other distinguishing printing of the words "under 21 on the license, if applicable, and the applicant's signature. Driver's licenses for persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and driver's licenses for persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)."~~ No driver's license shall be valid until it has been signed on the signature line of the license by the licensee.

(2) Every driver's license shall bear a color photograph of the licensee, which shall be taken by the examiner at the time the application is made. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. A driver's license may contain a statement or indication of the medical condition of the licensee.

(3) The department shall notify the commercial driver license information system that a class A, B or C driver's license has been issued as required by 49 CFR part 383.

(4) A licensee desiring to donate any or all organs or tissue in the event of death, pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, at the option of the donor may indicate this desire on the driver's license by the imprinting of the word "donor" on the license.

SECTION 3. That Section 49-319, Idaho Code, be, and the same is hereby amended to read as follows:

49-319. EXPIRATION AND RENEWAL OF DRIVER'S LICENSE. (1) Every Idaho driver's license issued to a driver twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following the issuance of the driver's license. Every driver's license issued to a driver under eighteen (18) years of age shall expire on the licensee's eighteenth birthday. Every driver's license issued to a driver eighteen (18) years of age but under twenty-one (21) years of age shall expire on the licensee's twenty-first birthday. Every driver's license that is not, as provided by law, suspended, revoked or disqualified in this state or any other jurisdiction shall be renewable on or before its expiration, except those issued to drivers under twenty-one (21) years of age, but not more than twelve (12) months before, upon application, payment of the required fee, and satisfactory completion of the required eyesight examination. No knowledge test shall be required for renewal of a driver's license, except for renewal of a hazardous material endorsement. Appropriate knowledge and skill tests shall be required for an upgrade in a driver's license class or an endorsement addition. In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(2) When a driver's license has been expired for less than twelve (12) months, the renewal of the driver's license shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the driver's license is expired for twelve (12) months or more, the applicant shall be required to take the knowledge, skills and vision test and the application shall expire on the licensee's birthday in the fourth year following issuance of the driver's license.

(3) (a) If a driver's license has expired or will expire and the licensee is temporarily out-of-state except on active military duty, and the driver's license has not, as provided by law, been suspended, revoked, cancelled, denied, refused or disqualified, the licensee may request in writing on a form prescribed by the department an extension of the driver's license. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be less than a twelve (12) month period. If the department determines that an extension of the driver's license is necessary, it may issue a certificate of extension showing the date to which the expired driver's license is extended, and this certificate shall be attached to the expired driver's license. Certificates of extension are limited to one two (±2) per licensee.

(b) Upon returning to the state of Idaho, the licensee shall within ten (10) days, apply for a renewal of the expired driver's license and surrender the certificate of extension and the expired driver's license.

(c) A hazardous material endorsement cannot be extended.

(4) An Idaho driver's license issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and

in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four (4) years so long as active duty continues, if the driver's license is not suspended, denied, disqualified, cancelled or revoked, as provided by law, during the active duty, and the driver's license shall remain in full force and effect sixty (60) days following the date the holder is released from active duty.

(5) The department may use a mail renewal process for class D licenses based on criteria established by rule.

(6) A seasonal driver's license is only valid for a one hundred eighty (180) day period from the date of issuance. Only one (1) seasonal driver's license may be obtained in any twelve (12) month period, and may only be obtained twice in a driver's lifetime.

SECTION 4. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED. (1) The department shall issue an distinguishing identification card which shall set forth the information contained in the application, in a form as prescribed by the department. All identification cards issued on or after January 1, 1993, shall not contain the applicant's social security number. An applicant's social security number shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Each card shall be issued a distinguishing number and shall bear upon it a color photograph of the applicant which shall be taken by the examiner at the time of application. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. No person shall receive an identification card unless and until he surrenders to the department all identification cards in his possession issued to him by Idaho or any other jurisdiction, or until he executes an affidavit that he does not possess an identification card. ~~A notation of "under 21 until (month, day, year)" and any other distinguishing printing of the words "under 21" on the identification card shall be made if applicable.~~ Identification cards issued to persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and identification cards issued to persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." The nonrefundable fee for an identification card issued to persons twenty-one (21) years of age or older shall be seven dollars and fifty cents (\$7.50) of which five dollars (\$5.00) shall be retained by the county and credited to the current expense fund, and two dollars and fifty cents (\$2.50) shall be deposited in the state treasury to the credit of the highway distribution account. The nonrefundable fee for identification cards issued to persons under twenty-one (21) years of age shall be six dollars and fifty cents (\$6.50), of which five dollars (\$5.00) shall be retained by the county and credited to the cur-

rent expense fund, and one dollar and fifty cents (\$1.50) shall be deposited in the state treasury to the credit of the highway distribution account. Every identification card issued to a person twenty-one (21) years of age or older shall expire on the cardholder's birthday in the fourth year following issuance of the card. Every identification card issued to a person under eighteen (18) years of age shall expire on the person's eighteenth birthday. Every identification card issued to a person eighteen (18) years of age but under twenty-one (21) years of age shall expire on the person's twenty-first birthday.

(2) Every identification card, except those issued to persons under twenty-one (21) years of age, shall be renewable on or before its expiration, but not more than twelve (12) months before, and upon application and payment of the required fee.

(3) When an identification card has been expired for less than twelve (12) months, the renewal of the identification card shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the identification card is expired for more than twelve (12) months, the application shall expire on the applicant's birthday in the fourth year following issuance of the identification card.

(4) A person possessing an identification card desiring to donate any or all organs or tissue in the event of death, pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, at the option of the donor may indicate this desire on the identification card by the imprinting of the word "donor" on the identification card.

(5) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(6) Whenever any person, after applying for or receiving an identification card, shall move from the address shown on the application or on the identification card issued, that person shall, within fourteen (14) days, notify the transportation department in writing of the old and new addresses.

(7) The department shall cancel any identification card upon determining that the person was not entitled to the issuance of the identification card, or that the person failed to give the required and correct information in his application or committed fraud in making the application. Upon cancellation, the person shall surrender the cancelled identification card to the department.

(8) If any person shall fail to return to the department the identification card as required, the department may direct any peace officer to secure its possession and return the identification card to the department.

SECTION 5. This act shall be in full force and effect on and after January 1, 2001.

Approved March 24, 1999.

CHAPTER 319
(S.B. No. 1170)

AN ACT

RELATING TO APPLICATIONS FOR DRIVER'S LICENSES, IDENTIFICATION CARDS AND INSTRUCTION PERMITS; AMENDING SECTION 49-306, IDAHO CODE, TO CLARIFY THE REQUIREMENTS FOR PROVIDING A SOCIAL SECURITY NUMBER ON AN APPLICATION FOR A DRIVER'S LICENSE OR AN INSTRUCTION PERMIT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-2443, IDAHO CODE, TO CLARIFY THE REQUIREMENTS FOR PROVIDING A SOCIAL SECURITY NUMBER ON AN APPLICATION FOR AN IDENTIFICATION CARD AND TO CORRECT A CODIFIER'S ERROR; AND DECLARING AN EMERGENCY.

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, extension 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 \$55.00
- (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
- (p) Restricted driving permit \$35.00

(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 the applicant's social security number as verified by the applicant's social security card or by the social security administration.

(a) The requirement that an applicant provide a social security

number as verified by his social security card or by the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

(i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license or 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.

(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 33-4904, Idaho Code; and

(1) 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 not more than fifty dollars (\$50.00) of the skills test fee. A contractor administering a class A, B, or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) Thirty-five dollars (\$35.00) of each restricted driving permit shall be deposited in the state highway account.

(11) 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.

(12) The department may issue seasonal class B or C driver's licenses to drivers who:

(a) Have not violated the single license provisions of 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 2. 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 (76) 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;

(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.

(a) The requirement that an applicant provide a social security number as verified by his social security card or by the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

(i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

~~(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 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 24, 1999.

CHAPTER 320
(S.B. No. 1173, As Amended)

AN ACT

RELATING TO DISTRIBUTION OF HIGHWAY FUNDS; AMENDING SECTION 40-701, IDAHO CODE, TO DELETE DISTRIBUTION OF ANY MONEYS IN THE HIGHWAY DISTRIBUTION ACCOUNT TO THE RESTRICTED HIGHWAY FUND AND TO REVISE THE PROPORTIONAL DISTRIBUTION OF MONEYS IN THE ACCOUNT TO LOCAL UNITS OF GOVERNMENT, THE STATE HIGHWAY ACCOUNT AND THE LAW ENFORCEMENT ACCOUNT; AMENDING SECTIONS 41-4909 AND 41-4909A, IDAHO CODE, TO DELETE REFERENCE TO THE RESTRICTED HIGHWAY FUND, TO PROVIDE FOR DISTRIBUTION OF REVENUES TO THE HIGHWAY DISTRIBUTION ACCOUNT AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 40-701A, IDAHO CODE; AND AMENDING SECTION 49-402, IDAHO CODE, TO DELETE PROVISIONS THAT DISTRIBUTE A PORTION OF REVENUES FROM THE ANNUAL REGISTRATION OF VEHICLES WEIGHING EIGHT THOUSAND POUNDS OR LESS TO THE RESTRICTED HIGHWAY FUND.

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

SECTION 1. That Section 40-701, Idaho Code, be, and the same is hereby amended to read as follows:

40-701. HIGHWAY DISTRIBUTION ACCOUNT -- APPORTIONMENT. (1) There is established in the state treasury an account known as the "Highway Distribution Account," to which shall be credited:

(a) Moneys as provided by sections 63-2412(1)(e)4 and 63-2418(3), Idaho Code;

(b) All moneys collected by the department, their agents and vendors, and county assessors and sheriffs, under the provisions of title 49, Idaho Code, except as otherwise specifically provided for; and

(c) All other moneys as may be provided by law.

(2) The highway distribution account shall be apportioned as follows:

~~(a) An amount equivalent to the net increase in the motor fuels tax exceeding twenty-one cents (21¢) per gallon shall be deposited to the restricted highway fund, and the remainder shall be distributed;~~

~~(b) Thirty-five---and---seventy-seven---hundredthseight~~ percent (35-7738%) to local units of government as provided in section 40-709, Idaho Code;

~~(c) Fifty-eight---and---eighty-three---hundredthsseven~~ percent (58-83%) to the state highway account established in section 40-702, Idaho Code; and

~~(d) Five and---forty---hundredths~~ percent (5-40%) to the law enforcement account, established in section 67-2914, Idaho Code. The state controller shall cause the remittance of the moneys apportioned to local units of government not later than January 25, April 25, July 25 and October 25 of each year, and to the state highway account and the law enforcement account as the moneys become available to the highway distribution account.

(3) Interest earned on the investment of idle moneys in the highway distribution account shall be paid to the highway distribution account.

(4) All idle moneys in the dedicated highway trust or asset accounts or subaccounts established from highway user revenues, reimbursements, fees or permits shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the various highway trust or asset accounts and subaccounts.

SECTION 2. That Section 41-4909, Idaho Code, be, and the same is hereby amended to read as follows:

41-4909. DISTRIBUTION OF APPLICATION FEES AND TRANSFER FEES. (1) The application fees and the transfer fees collected as provided in this chapter shall be promptly remitted to the state treasurer for deposit in the Idaho petroleum clean water trust fund. The transfer fees and accumulated interest which accrued to the fund prior to August 3, 1995, shall remain in the fund. The transfer fees and accumulated interest, which have been held in a separate suspense account since August 3, 1995, shall be distributed as provided in subsection (4) of this section. The transfer fees and accumulated interest which accrue to the Idaho petroleum clean water trust fund subsequent to

April 1, 1997, shall be distributed monthly thereafter as provided in subsection (5) of this section.

(2) An amount of money equal to the actual cost of collecting, administering and enforcing the transfer fee by the commission, as determined by it, shall be retained by the commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collection, administering and enforcing the transfer fee requirements by the commission at the end of each fiscal year shall be remitted to the state treasurer for deposit into the Idaho petroleum clean water trust fund.

(3) From the receipts of the transfer fee, an amount of money shall be distributed to the state refund account established under section 63-3067, Idaho Code, sufficient to reimburse that account for all current refund claims under this chapter paid from that account. Any refunds due and owing from the commission under this chapter shall be paid from the state refund account and those moneys are hereby continuously appropriated for that purpose.

(4) For the distribution on April 1, 1997, the balance of the transfer fees and accumulated interest accruing to the separate suspense account established for such fees on August 3, 1995, which remain after distributing the amounts specified in subsections (2) and (3) of this section, shall be distributed as follows:

(a) Twenty percent (20%) to the Idaho petroleum clean water trust fund established in section 41-4904, Idaho Code;

(b) Three percent (3%) to the Idaho department of parks and recreation in accordance with subparagraphs 1., 2., and 3. of paragraph (e), subsection (1) of section 63-2412, Idaho Code; and

(c) The remainder shall be distributed:

(i) Six million dollars (\$6,000,000) to the state highway account for administration by the Idaho transportation department as provided in section 41-4909A, Idaho Code; and

(ii) The balance remaining to the restricted highway fund distribution account established in section 40-701A, Idaho Code.

(5) For the distribution at the end of fiscal year 1997 and monthly thereafter, the balance of the transfer fees and accumulated interest accruing to the Idaho petroleum clean water trust fund which remain after distributing the amounts specified in subsections (2) and (3) of this section, shall be distributed as follows:

(a) Seventy-seven percent (77%) to the restricted highway fund distribution account established in section 40-701A, Idaho Code; and

(b) Three percent (3%) to the Idaho department of parks and recreation in accordance with subparagraphs 1., 2., and 3. of paragraph (e), subsection (1) of section 63-2412, Idaho Code.

SECTION 3. That Section 41-4909A, Idaho Code, be, and the same is hereby amended to read as follows:

41-4909A. APPORTIONMENT OF MONEYS TRANSFERRED TO THE STATE HIGHWAY ACCOUNT FROM THE IDAHO PETROLEUM CLEAN WATER TRUST FUND SUSPENSE ACCOUNT ON APRIL 1, 1997. Of the moneys transferred to the state high-

way account pursuant to the distribution in section 41-4909(4)(c)(i), Idaho Code, an amount not to exceed six million dollars (\$6,000,000) shall be administered by the Idaho transportation department for use as the state and local match for federal highway administration (FHWA) and federal emergency management agency (FEMA) road and bridge projects. Such moneys shall be used exclusively for repair and restoration of local and state roads and bridges damaged by the 1997 natural disasters in the counties of Adams, Benewah, Bingham, Boise, Bonner, Bonneville, Boundary, Butte, Clearwater, Custer, Elmore, Fremont, Gem, Idaho, Jefferson, Kootenai, Latah, Madison, Nez Perce, Owyhee, Payette, Shoshone, Valley and Washington. When apportionment of moneys under this section is sufficient to meet the purposes for which the moneys are designated, but not to exceed six million dollars (\$6,000,000), any remaining amounts shall be returned to the restricted highway fund distribution account established in section 40-701A, Idaho Code.

SECTION 4. That Section 40-701A, Idaho Code, be, and the same is hereby repealed.

SECTION 5. 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.~~

Vehicles over eight (8) years old \$24.00
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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.

Approved March 24, 1999.

CHAPTER 321

(S.B. No. 1176, As Amended)

AN ACT

RELATING TO INSOLVENT INSURERS; AMENDING SECTION 41-3342, IDAHO CODE, TO REVISE PRIORITIES FOR DISTRIBUTION OF ASSETS IN THE LIQUIDATION OF AN INSOLVENT INSURER; DECLARING AN EMERGENCY AND PROVIDING APPLICATION.

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

SECTION 1. That Section 41-3342, Idaho Code, be, and the same is hereby amended to read as follows:

41-3342. PRIORITY OF DISTRIBUTION. The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is herein set forth. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims shall be:

(1) Class 1. The costs and expenses of administration, including, but not limited to, the following:

(a) The actual and necessary costs of preserving or recovering the assets of the insurer;

(b) Compensation for all services rendered in the liquidation;

- (c) Any necessary filing fees;
- (d) The fees and mileage payable to witnesses;
- (e) Reasonable attorney's fees; and
- (f) The reasonable expenses of a guaranty association or foreign guaranty association in handling claims.

~~(2) Class 2. Debts due to employees for services performed and benefits accrued to the extent that they do not exceed one thousand dollars (\$1,000) and represent payment for services performed within one (1) year before the commencing of delinquency proceedings. Officers and directors shall not be entitled to the benefit of this priority. Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees.~~

~~(3) Class 3. All claims under policies for losses incurred, including third party claims, all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies, and all claims of a guaranty association or foreign guaranty association. All claims under life and policies, annuity policies, or disability or health insurance policies, whether for death proceeds, annuity proceeds, or investment values shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to his employee shall be treated as a gratuity.~~

(3) Class 3. Claims under nonassessable policies for unearned premium or other premium refunds.

~~(4) Class 4. Claims under nonassessable policies for unearned premium of other premium refunds and claims of general creditors of the federal government not included in class 2 or class 3 above.~~

(5) Class 5. Debts due to employees for services performed and benefits accrued to the extent that they do not exceed one thousand dollars (\$1,000) and represent payment for services performed within one (1) year before the commencing of delinquency proceedings. Officers and directors shall not be entitled to the benefit of this priority. Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees.

(6) Class 6. Claims of general creditors and all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under the policies.

(57) Class 57. Claims of the federal or any state or local government not included in class 2 or class 3 above. Claims, including those of any state or local governmental body for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under subsection (810) of this section.

(68) Class 68. Claims filed late or any other claims other than claims under subsections (79) and (810) of this section.

(79) Class 79. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law.

(810) Class 810. The claims of shareholders or other owners arising out of their capacity as shareholders or owners, or any other capacity except as they may be qualified in class 2 or class 6 above.

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 shall apply to pending and future claims in existing delinquency proceedings as well as to claims in delinquency proceedings arising after the effective date of this act.

Approved March 24, 1999.

CHAPTER 322
(S.B. No. 1177)

AN ACT

RELATING TO SECURITIES TRANSACTIONS; AMENDING SECTION 30-1402, IDAHO CODE, TO REVISE THE DEFINITIONS OF "INVESTMENT ADVISER REPRESENTATIVE OR AGENT" AND "FEDERAL COVERED ADVISER" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 30-1406, IDAHO CODE, TO DELETE LANGUAGE WHERE THE DIRECTOR OF THE DEPARTMENT OF FINANCE MAY REQUIRE THE REGISTRATION OF ANY PERSON WHO IS REGISTERED OR REQUIRED TO BE REGISTERED AS AN INVESTMENT ADVISER UNDER FEDERAL LAW; AMENDING SECTION 30-1433A, IDAHO CODE, TO DELETE LANGUAGE WHERE THE DIRECTOR OF THE DEPARTMENT OF FINANCE MAY REQUIRE THE REGISTRATION OF ANY COVERED SECURITY; AMENDING SECTION 30-1435, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF FINANCE TO EXEMPT PARTICULAR TYPES OF SECURITIES TRANSACTIONS FROM THE REGISTRATION PROVISIONS OF THE IDAHO SECURITIES ACT AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 30-1402, Idaho Code, be, and the same is hereby amended to read as follows:

30-1402. DEFINITIONS. When used in this act, unless the context otherwise requires:

- (1) "Director" means the director of the department of finance.
- (2) "Salesman" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities, but "salesman" does not include an individual who represents:
 - (a) an issuer in:
 - (i) effecting a transaction in a security exempted in para-

graphs (a), (b), (c), (f), (i), (j) or (k) of subsection (1) of section 30-1434, Idaho Code;

(ii) effecting transactions exempted by section 30-1435, Idaho Code;

(iii) effecting transactions with existing employees, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state; or

(iv) effecting transactions in a covered security as described in section 18(b)(3) and 18(b)(4)(D) of the securities act of 1933; or

(b) a broker-dealer in effecting transactions in this state limited to those transactions described in section 15(h)(2) of the securities exchange act of 1934. A partner, officer or director of a ~~brokerdealer~~ broker-dealer or issuer is a "salesman" only if he otherwise comes within this definition.

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:

(a) a salesman, issuer, bank, savings institution, trust company, credit union or insurance company;

(b) a person who has no place of business in this state if he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts or other financial institutions or institutional buyers, whether acting for themselves or as trustee; or

(c) a person who has no place of business in this state if during any period of twelve (12) consecutive months he does not direct more than fifteen (15) offers to sell or to buy into this state in any manner to persons other than those specified in subsection (3)(b) of this section.

(4) "Guaranteed" means guaranteed as to payment of principal, interest or dividends.

(5) "Full business day" means all calendar days except Saturdays, Sundays and all legal holidays as defined by statute.

(6) "Investment adviser" means any person who, for compensation, engages in the business of advising others either directly or through publications or writings as to the value of securities or as to the advisability of investing in, purchasing or selling securities or, who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. Investment adviser also includes financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation and as a part of a business or who hold themselves out as providing the foregoing advisory services to others for compensation. "Investment adviser" does not include:

(a) a bank, savings institution, trust company, credit union or insurance company;

(b) a certified public accountant or licensed public accountant

who holds himself out to the public as a certified public accountant or licensed public accountant;

(c) a lawyer, engineer or teacher whose performance of these services is solely incidental to the practice of his profession;

(d) a broker-dealer or its agent whose performance of these services is solely incidental to the conduct of its business as a broker-dealer and who receives no special compensation for them;

(e) a publisher of any newspaper, news column, newsletter, news magazine or business or financial publication or service, whether communicated in hard copy form, or by electronic means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client;

(f) a person whose advice, analyses or reports relate only to securities exempted by section 30-1434(1)(a), Idaho Code;

(g) an investment adviser representative;

(h) any person that is a federal covered advisor adviser;

(i) such other persons not within the intent of this subsection as the director may, by rule or order, designate.

(7) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting-trust certificates or collateral-trust certificates or with respect to certificates of interest or shares in any unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted management or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(8) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(9) "Person," for the purpose of this act, means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government or a political subdivision of a government.

(10) "Sale" or "sell" includes every contract of sale or contract to sell or dispose of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt or offer to dispose of, and every solicitation of an offer to buy, a security or interest in a security for value.

Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of or the levying of an assessment on assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(11) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company

Act of 1940" mean the federal statutes identified by those names as amended before or after the effective date of this chapter.

(12) "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, or, in general, any interest or instrument commonly known as a "security" or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money, either in a lump sum, or periodically for life or some other specified period.

(13) "State" means any state, territory or possession of the United States, the District of Columbia and Puerto Rico.

(14) "Investment adviser representative or agent" means:

(a) with respect to an investment adviser, any partner, officer, director, or a person occupying a similar status or performing similar functions, or other individual, except clerical or ministerial personnel, (a) employed by or associated with an investment adviser registered in this state, or (b) who has a place of business located in this state and is employed by or associated with a federal covered adviser, required to be registered in this state and who:

(ai) makes any recommendation or otherwise renders advice regarding securities;

(bii) manages accounts or portfolios of clients;

(ciii) determines which recommendation or advice regarding securities should be given;

(div) solicits, offers or negotiates for the sale of or sells investment advisory services; or

(ev) supervises employees in the performance of any of the foregoing.

(b) with respect to a federal covered adviser, an individual who has a "place of business" in this state, as that term is defined in rules or regulations promulgated under section 203AA of the investment advisers act of 1940 by the United States securities and exchange commission and who either:

(i) is an "investment adviser representative" as that term is defined in rules or regulations promulgated under section 203A of the investment advisers act of 1940 by the U.S. securities and exchange commission; or

(ii) is not a "supervised person" as that term is defined in the investment advisers act of 1940 and solicits, offers or negotiates for the sale of or sells investment advisory services on behalf of a federal covered adviser.

(c) "Investment adviser representative or agent" does not include a person whose performance of these services is solely incidental to the conduct of such person's business as a salesman for a

broker-dealer and who does not share in an investment advisory fee paid by the investment adviser client.

(15) "Federal covered adviser" means a person who is ~~(a) registered under section 203 of the investment advisers act of 1940; or (b) is excluded from the definition of "investment adviser" under section 202(a)(11) of the investment advisers act of 1940.~~

(16) "Federal covered security" means any security that is a covered security under section 18(b) of the securities act of 1933, or rules or regulations promulgated thereunder.

SECTION 2. That Section 30-1406, Idaho Code, be, and the same is hereby amended to read as follows:

30-1406. REGISTRATION OR NOTICE FILING REQUIRED OF BROKER-DEALERS, SALESMEN, INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES. (1) It is unlawful for any person to transact business in this state as a broker-dealer or salesman unless he is registered under this chapter, and it is unlawful for any broker-dealer or issuer to employ a salesman unless the salesman is registered under this chapter.

(2) It is unlawful for any person to transact business in this state as an investment adviser or as an investment adviser representative unless:

(a) he is so registered under this chapter, or

(b) he has no place of business in this state and his only clients in this state are investment companies as defined in the investment company act of 1940, other investment advisers, federal covered advisers, broker-dealers, banks, trust companies, savings and loan associations, insurance companies, employee benefit plan with assets of not less than one million dollars (\$1,000,000), and governmental agencies or instrumentalities, whether acting for themselves or as trustees with investment control, or other institutional investors as are designated by rule or order of the director, or

(c) he has no place of business in this state and during the preceding twelve (12) month period has had not more than five (5) clients, other than those specified in paragraph (b) of this subsection, who are residents of this state, or

(d) he is registered as a salesman under this chapter and is employed by a broker-dealer registered under this chapter and: (i) his investment advisory activities are limited to recommending the investment advisory services of an investment adviser registered under this chapter or a federal covered adviser, and all such recommendations are made on behalf of the employing broker-dealer; (ii) he is not compensated directly for making such recommendations; and (iii) he provides written notice to the director that he is relying on this exemption from the requirement to be registered as an investment adviser representative.

(3) (a) It is unlawful for any investment adviser required to be registered under this chapter, to employ an investment adviser representative unless the investment adviser representative is registered under this chapter or is exempt from registration.

(b) It is unlawful for any federal covered adviser to employ,

supervise, or associate with an investment adviser representative having a place of business located in this state, unless such investment adviser representative is registered under this chapter, or is exempt from registration.

(4) Except with respect to advisers whose only clients are those described in paragraphs (2)(b) and (c) of this section, it is unlawful for any federal covered adviser to conduct advisory business in this state unless such person files with the director, prior to acting as a federal covered adviser in this state: (a) such documents as have been filed with the securities and exchange commission as the director, by rule or order, may require; (b) a consent to service of process as prescribed by section 30-1436, Idaho Code; and (c) pays a fee as provided in section 30-1437, Idaho Code. The director may issue an order of suspension against any person rendering investment advice in violation of this subsection.

~~(5) Notwithstanding anything to the contrary in this chapter, until October 11, 1999, the director may require the registration of any person who is registered or required to be registered as an investment adviser under section 203 of the investment advisers act of 1940 and who has failed to promptly pay the fees required by section 30-1437, Idaho Code, after being notified in writing by the director of the nonpayment or underpayment of such fees. A person shall be considered to have promptly paid such fees if they are remitted to the director within fifteen (15) days following such person's receipt of the written notification from the director.~~

SECTION 3. That Section 30-1433A, Idaho Code, be, and the same is hereby amended to read as follows:

30-1433A. FEDERAL COVERED SECURITIES. (1) The director, by rule or order, may require the filing of any or all of the following documents with respect to a covered security under section 18(b)(2) of the securities act of 1933:

(a) Prior to the initial offer of such federal covered security in this state, all documents that are part of a federal registration statement filed with the securities and exchange commission under the securities act of 1933, together with a consent to service of process signed by the issuer, as prescribed by section 30-1436, Idaho Code, and with the payment of the fee prescribed by section 30-1437, Idaho Code; and

(b) After the initial offer of such federal covered security in this state, all documents that are part of an amendment to a federal registration statement filed with the securities and exchange commission under the securities act of 1933 which shall be filed concurrently with the director.

(2) With respect to any security that is a covered security under section 18(b)(4)(D) of the securities act of 1933, the director, by rule or order, may require the issuer to file a notice on SEC Form D and a consent to service of process, as prescribed by section 30-1436, Idaho Code, signed by the issuer no later than fifteen (15) days after the first sale of such covered security in this state, together with the fee prescribed by section 30-1437, Idaho Code.

(3) The director, by rule or order, may require the filing of any

document filed with the securities and exchange commission under the securities act of 1933, with respect to a covered security under section 18(b)(3) or (4) of the securities act of 1933, together with the fee prescribed by section 30-1437, Idaho Code.

(4) The director may issue a stop order suspending the offer and sale of a covered security, except a covered security under section 18(b)(1) of the securities act of 1933, if he finds that: (a) the order is in the public interest; and (b) there is a failure to comply with any condition established under this section.

(5) The director, by rule or order, may waive any or all of the provisions of this section.

~~(6) Notwithstanding the provisions of this section, until October 11, 1999, the director may require the registration of any covered security for which the fees required by section 30-1437, Idaho Code, have not been paid promptly following written notification from the director to the issuer of the nonpayment or underpayment of such fees. An issuer shall be considered to have promptly paid such fees if they are remitted to the director within fifteen (15) days following the issuer's receipt of written notification from the director.~~

SECTION 4. That Section 30-1435, Idaho Code, be, and the same is hereby amended to read as follows:

30-1435. EXEMPT TRANSACTIONS. (1) Except as hereinafter in this section expressly provided, sections 30-1416 through 30-1433A, Idaho Code, shall not apply to:

- (a) any isolated transaction,
- (b) sales not involving a public offering, whether effected through a broker-dealer or not,
- (c) any nonissuer distribution of an outstanding security by a registered broker-dealer if:
 - (i) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen (18) months and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or
 - (ii) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three (3) preceding fiscal years or during the existence of the issuer and any predecessors, if less than three (3) years, in the payment of principal, interest or dividends on the security,
- (d) any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy, but the director may require that the customer acknowledge on a form prescribed by the director that the sale was unsolicited and the director may require that a signed copy of each such form be preserved by the broker-dealer for a specified period,
- (e) any transaction between the issuer or other person on whose behalf the offering is made and an underwriter or among underwriters,
- (f) any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator in

the performance of his official duties as such,

(g) any transaction executed by a bona fide pledgee without any purpose of evading this chapter,

(h) any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the ~~Investment Company Act~~ of 1940, pension or profit-sharing trust or other financial institution or institutional buyer or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity,

(i) any transaction pursuant to an offer directed by the offerer to not more than ten (10) persons in this state other than those designated in paragraph (h) of subsection (1) of this section during any period of twelve (12) consecutive months, whether or not the offerer or any of the offerees is then present in this state, if

(i) the seller reasonably believes that all the buyers are purchasing for investment and,

(ii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer,

(j) any offer or sale of a preorganization certificate or subscription, if

(i) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber,

(ii) the number of subscribers does not exceed ten (10), and

(iii) no payment is made by any subscriber,

(k) any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants or transferable warrants exercisable within not more than ninety (90) days of their issuance, if

(i) no commission or other remuneration other than a standby commission is paid or given directly or indirectly for soliciting any security holder in this state, or

(ii) the issuer files a notice in the form prescribed by the director not less than thirty (30) days before making the offer,

(l) any offer, but not a sale, of a security for which registration statements have been filed under both this chapter and the ~~Securities Act~~ of 1933 if no stop order or denial order is in effect and no public proceeding or examination looking toward such an order is pending under either act,

(m) the issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock,

(n) any transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi-reorganization, stock split, reverse stock split, merger, consolidation or sale of assets, if

(i) no commission or other remuneration other than a standby commission is paid or given directly or indirectly

for soliciting any security holder in this state, or
 (ii) the issuer files a notice in the form specified by the director not less than thirty (30) days before making the offer,

(o) any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit,

(p) such other transactions as the director by rule or order may prescribe.

(2) The director may by order, deny or revoke the exemption specified in paragraph (c), (d), (k) or (n) of subsection (1) of this section with respect to a specific security. Upon the entry of such an order the director shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within twenty (20) days of the receipt of a written request the matter will be set for hearing. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under said subsections may operate retroactively. No person may be considered to have violated this chapter by reason of any offer or sale effected after the entry of any order under said subsections if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known of the order.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 4 of this act shall be in full force and effect on and after its passage and approval; Section 1 of this act shall be in full force and effect on and after July 1, 1999; and Sections 2 and 3 of this act shall be in full force and effect on and after October 12, 1999.

Approved March 24, 1999.

CHAPTER 323
 (S.B. No. 1205)

AN ACT

RELATING TO VENEREAL DISEASES; AMENDING SECTION 39-604, IDAHO CODE, TO PROVIDE FOR TESTING OF PERSONS CHARGED WITH A CRIME INVOLVING A POSSIBLE TRANSMISSION OF BODY FLUIDS FOR HEPATITIS C VIRUS.

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

SECTION 1. That Section 39-604, Idaho Code, be, and the same is hereby amended to read as follows:

39-604. CONFINED AND IMPRISONED PERSONS -- EXAMINATION, TREATMENT, AND QUARANTINE -- VICTIMS OF SEXUAL OFFENSES -- ACCESS TO OFFENDERS' TEST RESULTS, TESTING FOR HIV, COUNSELING AND REFERRAL SERVICES. (1) All persons who shall be confined or imprisoned in any state prison facility in this state shall be examined for on admission, and again before release, and, if infected, treated for the diseases enumerated in section 39-601, Idaho Code, and this examination shall include a test for HIV antibodies or antigens. This examination is not intended to limit any usual or customary medical examinations that might be indicated during a person's imprisonment. Nothing herein contained shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

(2) All persons who shall be confined in any county or city jail may be examined for and, if infected, treated for the venereal diseases enumerated in section 39-601, Idaho Code, if such persons have, in the judgment of public health authorities and the jailer, been exposed to a disease enumerated in section 39-601, Idaho Code.

(3) All persons, including juveniles, who are charged with sex offenses, drug related charges, prostitution, any crime in which body fluid has likely been transmitted to another, or other charges as recommended by public health authorities shall be tested for the venereal diseases enumerated in section 39-601, Idaho Code, and for hepatitis C virus.

(4) All persons who are charged with any crime in which body fluid as defined in this chapter has likely been transmitted to another shall be tested for the presence of HIV antibodies or antigens, for hepatitis C virus and for hepatitis B virus.

(5) If a person is tested as required in subsections (3) or (4) of this section, the results of the test shall be revealed to the court. The court shall release the results of the test to the victim(s), or if the victim(s) is a minor, to the minor's parent, guardian or legal custodian. Whenever a prisoner tests positive for HIV antibodies or antigens, the victim(s) of said prisoner shall be entitled to counseling regarding HIV, HIV testing in accordance with applicable law, and referral for appropriate health care and support services. Said counseling, HIV testing and referral services shall be provided to the victim(s) by the district health departments at no charge to the victim(s). Provided however, the requirement to provide referral services does not, in and of itself, obligate the district health departments to provide or otherwise pay for a victim's health care or support services. Any court, when releasing test results to a victim(s), or if the victim(s) is a minor, to the minor's parent, guardian, or legal custodian, shall explain or otherwise make the victim(s) or the victim's parent, guardian, or legal custodian, aware of the services to which the victim(s) is entitled as described herein.

(6) Responsibility for the examination, testing and treatment of persons confined in county or city jails shall be vested in the county or city that operates the jail. The county or city may contract with the district health departments or make other arrangements for the examination, testing and treatment services. The district health department or other provider may charge and collect for the costs of

such examination and treatment, as follows:

- (a) When the prisoner is a convicted felon awaiting transfer to the board of correction, or when the prisoner is a convicted felon being confined in jail pursuant to a contract with the board of correction, the board of correction shall reimburse such costs;
- (b) When the prisoner is awaiting trial after an arrest by any state officer, the state agency employing such arresting officer shall reimburse such costs;
- (c) When the prisoner is being held for any other authority or jurisdiction, including another state, the authority or jurisdiction responsible shall reimburse such costs unless otherwise provided for by contract.

Approved March 24, 1999.

CHAPTER 324
(S.B. No. 1209)

AN ACT

RELATING TO BEE INSPECTION; AMENDING SECTION 22-2539, IDAHO CODE, TO AUTHORIZE SEIZURE OF BEES, COLONIES, EQUIPMENT OR HIVES IN VIOLATION OF PROVISIONS OF THIS CHAPTER AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 22-2539, Idaho Code, be, and the same is hereby amended to read as follows:

22-2539. PENALTY FOR VIOLATIONS. (1) Any person who violates or fails to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months or be subject to both such fine and imprisonment.

(2) Any person who violates or fails to comply with any of the provisions of this chapter or any regulations rules promulgated under this chapter may be assessed a civil penalty by the department or its duly authorized agent of not more than one hundred dollars (\$100) for each offense and shall be liable for reasonable attorney's fees. Assessment of a civil penalty may be made in conjunction with any other department administrative action. No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act. If the department is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court. Any person against whom the department has assessed a civil penalty under the provisions of this section may, within thirty (30) days of the final action by the agency making the

assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred. Moneys collected for violation of a rule or regulation shall be remitted to the agricultural inspection account.

(3) Any bees, colonies, equipment or hives, imported into this state by a nonresident person, in violation of any provision of this chapter shall be subject to seizure by the department. Any bees, colonies, equipment or hives found on any property without the permission of the landowner or not identified with the owner's name, address, phone and registration numbers or found to be in violation of this chapter or rules adopted by the department, shall also be subject to seizure by the department. Any bees, colonies, equipment or hives not claimed and brought into compliance with the provisions of this chapter within ninety (90) days from the date of seizure may be sold at public auction by a sealed bid.

(4) Nothing in this chapter shall be construed as requiring the director to report minor violations for prosecution when he believes that the public interest will be best served by suitable warnings or other administrative action.

Approved March 24, 1999.

CHAPTER 325
(S.B. No. 1214)

AN ACT

RELATING TO SECURITIES BROKERS-DEALERS; AMENDING CHAPTER 14, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-1438A, IDAHO CODE, TO PROVIDE REPORTING REQUIREMENTS FOR A BROKER-DEALER AND TO PROVIDE QUALIFIED LEGAL IMMUNITY FOR REPORTING PROPERLY.

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

SECTION 1. That Chapter 14, 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 30-1438A, Idaho Code, and to read as follows:

30-1438A. REPORTING REQUIREMENTS -- QUALIFIED IMMUNITY. (1) A broker-dealer shall make complete disclosure of all information required to be reported to the national association of securities dealers (NASD) pursuant to article V, sections 2 and 3 of the NASD bylaws, including information reportable pursuant to NASD forms U-4 and U-5, disclosure reporting pages and related explanatory materials.

(2) A party is not liable in any civil action, other than one brought by a governmental agency, including counterclaims, third-party claims or cross-claims related to an alleged untrue statement made pursuant to this section, unless the complainant shows by clear and convincing evidence that:

(a) The party knew at the time that the statement was made that it was false in any material respect; or

(b) The party acted in reckless disregard as to the statement's truth or falsity.

Approved March 24, 1999.

CHAPTER 326
(S.B. No. 1215, As Amended)

AN ACT
RELATING TO PAROLE; AMENDING SECTION 20-223, IDAHO CODE, TO PROVIDE FOR INTERSTATE COMPACT PAROLED PRISONERS TO POST A BOND, TO PROVIDE GROUNDS FOR FORFEITURE OF THE BOND, TO PROVIDE FOR ADMINISTRATIVE COSTS, TO PROVIDE RULES AND TO CREATE THE COMMISSION RECEIPTS FUND IN THE STATE TREASURY.

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. Any prisoner who is granted parole under the interstate compact may be required to post a bond prior to release or prior to such acceptance under the interstate compact; such bond may be posted by the prisoner, the prisoner's family, or other interested party. Failure to successfully complete parole may be grounds for forfeiture of the bond. Upon successful completion of parole, the amount of the bond will be returned, less an amount for administrative costs as determined by commission rule, in compliance with chapter 52, title 67, Idaho Code. Funds collected through the bonding process will be placed in a separate commission receipts fund which is hereby created in the state treasury, and utilized for the extradition of said parole violators.

(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 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 be a reward of clemency and it shall not be considered to be a reduction of sentence or a pardon. 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.

Approved March 24, 1999.

CHAPTER 327

(S.B. No. 1229, As Amended)

AN ACT

RELATING TO THE IDAHO EDUCATIONAL TECHNOLOGY INITIATIVE; AMENDING SECTION 33-4802, IDAHO CODE, TO REVISE THE STATEMENT OF LEGISLATIVE

FINDINGS; AMENDING SECTION 33-4803, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 33-4804, IDAHO CODE, TO REVISE THE MEMBERSHIP OF THE STATE COUNCIL FOR TECHNOLOGY IN LEARNING AND TO PROVIDE FOR THE APPOINTMENT; AMENDING SECTION 33-4805, IDAHO CODE, TO DEFINE RESPONSIBILITIES OF THE COUNCIL; AMENDING SECTION 33-4807, IDAHO CODE, TO PROVIDE FOR EVALUATIONS AND AUDITS ANNUALLY; AMENDING CHAPTER 48, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-4809, IDAHO CODE, TO PROVIDE FOR A HIGHER EDUCATION INFORMATION TECHNOLOGY COMMITTEE; AND AMENDING CHAPTER 48, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-4810, IDAHO CODE, TO PROVIDE FOR A PUBLIC EDUCATION INFORMATION TECHNOLOGY COMMITTEE.

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

SECTION 1. That Section 33-4802, Idaho Code, be, and the same is hereby amended to read as follows:

33-4802. FINDINGS. The legislature hereby finds, determines and declares that the state of Idaho recognizes the importance of applying technology to meet the public need for an improved, and thorough and seamless public education system for elementary and secondary education, education of the hearing or visually impaired at the Idaho school for the deaf and blind, post-secondary and higher education and public libraries.

SECTION 2. That Section 33-4803, Idaho Code, be, and the same is hereby amended to read as follows:

33-4803. DEFINITIONS. As used in this chapter:

(1) "Educational segments" are, individually, the public elementary and secondary school system, the Idaho school for the deaf and blind, the vocational education system, the state library, the state historical society, Idaho public television, the community colleges, and the four-year colleges and universities, the state department of education and the office of the state board of education.

(2) ~~"IPB6" means the Idaho public broadcasting service.~~

(3) ~~"Instructional video service providers" means publicly and privately funded television agencies that offer instructional video programming and services without commercial advertising.~~

(4) "Libraries" means district, city, and school/community libraries, and the state library as described in chapters 25, 26 and 27, title 33, Idaho Code.

(5) ~~"Technology" means technology-based materials, equipment, systems, and networks all present and future forms of computer hardware, computer software and services used or required for automated data processing, computer-related office automation or telecommunications.~~

(6) ~~"Telecommunications" means all present and future forms of hardware, software or services used or required for transmitting voice, data, video or images over a distance.~~

SECTION 3. That Section 33-4804, Idaho Code, be, and the same is hereby amended to read as follows:

33-4804. STATE COUNCIL FOR TECHNOLOGY IN LEARNING CREATED -- MEMBERSHIP. (1) There is hereby created and established the state council for technology in learning under the state board of education, referred to herein as the council.

(2) The council shall consist of ~~fifteen~~ fourteen (154) members who shall be appointed as follows:

(a) The superintendent of public instruction, or his designee. The superintendent of public instruction shall appoint one (1) practicing public school administrator as a member.

(b) ~~The governor shall appoint one (1) practicing public school administrator, one (1) business/private sector representative with experience in applications of technology, one (1) representative of the division of vocational education, one (1) vocational/applied technology teacher, one (1) practicing public school teacher, one (1) public librarian, one (1) public school media specialist, one (1) member of the state board of education, and one (1) member of the faculty of a public higher education institution~~ person who is a member of a local school board as provided in chapter 5, title 33, Idaho Code. Such local school board member shall be appointed by the governor from a list of not less than three (3) nor more than five (5) names submitted by the statewide association representing local school board members.

(c) The president pro tempore of the Idaho senate shall appoint two (2) members of the senate, one (1) from each of the two (2) largest political parties.

(d) The speaker of the house of representatives shall appoint two (2) members of the house of representatives, one (1) from each of the two (2) largest political parties.

(e) ~~The chair A representative of the state board of education's telecommunications council~~ higher education information technology committee as provided in section 33-4809, Idaho Code, and a public school teacher representative of the public education information technology committee as provided in section 33-4810, Idaho Code.

(f) The state board of education shall appoint one (1) of its members as a member of the council. In addition, the state board of education shall appoint one (1) member who is currently serving as president of an Idaho public college or university. The executive director of the state board of education as appointed pursuant to section 33-102A, Idaho Code, shall serve as a member of the council.

(g) The state board of education shall select from among the members of the council a chairman who shall call and conduct the meetings of the council pursuant to policies adopted by the council and approved by the state board of education.

(3) ~~Members appointed by the governor and legislative leadership~~ At the first meeting of the council after the effective date of this act, the members shall draw by lottery to determine one-half (1/2) of the members to serve an initial term of two (2) years and one-half (1/2) of the members to serve an initial term of four (4) years. Thereafter, all members shall serve a term of four (4) years, but may be removed prior to the expiration of a term at the pleasure of the appointing official. Notwithstanding any other provision of law to the contrary, any member of the council may succeed himself in

appointment.

(4) Members of the council shall receive compensation as provided in section 59-509(b), Idaho Code.

SECTION 4. That Section 33-4805, Idaho Code, be, and the same is hereby amended to read as follows:

33-4805. RESPONSIBILITIES OF THE COUNCIL -- COUNCIL STAFF.
 (1) ~~Staff support for the council shall be drawn from the agencies and institutions under and affiliated with the state board of education including, but not limited to, the colleges and universities, community colleges, technical colleges, division of vocational education, department of education, Idaho public television, state library and office of the state board of education~~ educational segments as recommended by the council and approved by the state board of education. The legislative intent is to provide broad representation of the various educational segments with the council staff.

(2) The council shall have the following responsibilities:

(a) Develop and maintain a statewide education technology plan to provide seamless education in Idaho. Such plan shall be subject to annual review and approval by the state board of education.

(b) Make recommendations to the state board of education on educational technology and telecommunications plans, policies, programs and activities for all educational segments.

(c) Subject to the approval of the state board of education, administer and develop standards and criteria for the public school technology grants program provided for in section 33-4806, Idaho Code.

(d) Ensure that the recommendations made in Telecomm-92 are considered policies set by the information technology resource management council are followed in accordance with sections 67-5745B and 67-5745C, Idaho Code, in implementing educational technology programs pursuant to this chapter.

(e) Collaborate with all educational institutions, including libraries, public schools, higher education, technical and community colleges segments, as well as with professional education associations, and businesses, in recommending priorities for funding and in identifying needs for technology use in education.

(f) Recommend to the state board of education, standards and procedures for the administration of this act, including, but not limited to, standards for technology-based resources, projects, programs, practices or products to be adopted or adapted, and standards and criteria by which to evaluate the technology-based programs.

(6) In addition, the council shall recommend exemplary programs, practices, or products based on the criteria established in this subsection. ~~(5) of this section.~~

(7) Recommend priorities for uses of educational technology.

(8) Work with representatives of the governing bodies of the educational segments to develop recommendations or strategies for the coordination, administration, and evaluation of educational technology programs and resources.

(9) Work with representatives of the governing bodies of the

educational segments to identify strategies to coordinate state-wide voice, video, and data telecommunications systems that may be accessed by the educational segments.

(i) To review, evaluate and build upon the educational technology projects in public schools funded through other state initiatives.

(k) To form such subcommittees or task forces as it deems necessary to review matters pertaining to a particular educational segment or to any other issues before the council.

SECTION 5. That Section 33-4807, Idaho Code, be, and the same is hereby amended to read as follows:

33-4807. EVALUATIONS AND AUDITS. ~~On or before July 1, 1995, the legislative services office shall, initiate an interim evaluation of from time to time as directed by the legislature, evaluate and audit the relative impact, costs and benefits of each of the educational technology programs conducted pursuant to the appropriations made for the Idaho educational technology initiative during the second regular session of the fifty-second legislature. The evaluation results shall be reported to the governor, legislature, and state board of education on or before January 1, 1996. On or before July 1, 1996, the state board of education shall initiate a comprehensive evaluation of the relative impact, costs and benefits of each of the programs conducted pursuant to the appropriations made for the Idaho educational technology initiative during the second regular session of the fifty-second legislature. The evaluation results shall be reported to the governor and the legislature on or before July 1, 1997~~ this chapter. The state board of education shall report to the legislature and the governor each year on or before October 1 as to the relative impact, cost and benefit of the educational technology program conducted pursuant to this chapter.

SECTION 6. That Chapter 48, 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 33-4809, Idaho Code, and to read as follows:

33-4809. HIGHER EDUCATION INFORMATION TECHNOLOGY COMMITTEE. The state board of education shall establish a standing subcommittee of the council to be known as the higher education information technology committee, the purpose of which is to advise the council regarding postsecondary and other education technology and telecommunications issues pertinent to the purposes of this chapter that affect educational segments not including primary and secondary education.

SECTION 7. That Chapter 48, 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 33-4810, Idaho Code, and to read as follows:

33-4810. PUBLIC EDUCATION INFORMATION TECHNOLOGY COMMITTEE. The state board of education shall, upon consideration of the recommenda-

tions of the superintendent of public instruction, establish a standing subcommittee of the council to be known as the public education information technology committee, the purpose of which is to advise the council regarding only primary and secondary education technology and telecommunications issues pertinent to this chapter. At a minimum, and not by way of limitation, the public education information technology committee membership shall include one (1) vocational education/applied technology teacher, one (1) public librarian, one (1) public school media specialist, one (1) elementary public school teacher, and one (1) secondary public school teacher.

Approved March 24, 1999.

CHAPTER 328
(S.B. No. 1236)

AN ACT

RELATING TO THE STATE GUARANTEEING SCHOOL DISTRICT BONDS; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 53, TITLE 33, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR THE STATE'S GUARANTEE OF BONDS, TO PROVIDE PROGRAM ELIGIBILITY AND THE OPTION TO FOREGO GUARANTY, TO PROVIDE FOR MONITORING OF FINANCIAL SOLVENCY AND TO PROVIDE THAT THE STATE TREASURER SHALL MONITOR THE FISCAL SOLVENCY OF SCHOOL DISTRICTS, TO PROVIDE FOR NOTICE BY THE PAYING AGENT TO THE STATE TREASURER, TO PROVIDE FOR A STATE FINANCIAL ASSISTANCE INTERCEPT MECHANISM AND TO PROVIDE FOR INTEREST AND PENALTY PROVISIONS, TO PROVIDE FOR BACKUP LIQUIDITY ARRANGEMENTS AND ISSUANCE OF NOTES, TO PROVIDE UNLIMITED SALES TAX ACCOUNT PLEDGE TO LOAN FUNDS AND TO PROVIDE DUTIES OF THE STATE TAX COMMISSION, AND TO PROVIDE WHEN THE CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICT BONDS WILL TAKE EFFECT; AMENDING SECTION 63-3638, IDAHO CODE, TO PROVIDE FOR THE REMITTANCE OF MONEYS FROM THE SALES TAX ACCOUNT UPON CERTAIN FACTORS OCCURRING; AMENDING CHAPTER 7, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-728, IDAHO CODE, TO PROVIDE A CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICT BONDS BY THE ENDOWMENT FUND INVESTMENT BOARD; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 53, Title 33, Idaho Code, and to read as follows:

CHAPTER 53
IDAHO SCHOOL BOND GUARANTY ACT

33-5301. TITLE. This chapter shall be known as the "Idaho School Bond Guaranty Act."

33-5302. DEFINITIONS. (1) "Board" means the board of trustees of

a school district, including a specially chartered district, existing now or later under the laws of the state.

(2) "Bond" means any general obligation bond or refunding bond issued after the effective date of this chapter.

(3) "Default avoidance program" means the school bond guaranty program established by this chapter.

(4) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a board payable in whole or in part from revenues derived from property taxes and that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.

(5) "Paying agent" means the corporate paying agent selected by the board for a bond issue who is:

(a) Duly qualified; and

(b) Acceptable to the state treasurer.

(6) "Public school guarantee fund" means the fund described in section 2, article VIII, of the constitution of the state of Idaho and section 33-5309, Idaho Code.

(7) "Refunding bond" means any general obligation bond issued by a board for the purpose of refunding its outstanding general obligation bonds.

(8) "School district" means any school district, including a specially chartered district, existing now or later under the laws of the state.

33-5303. STATE'S GUARANTEE -- MONITORING OF FINANCIAL SOLVENCY CONTRACT WITH BONDHOLDERS -- GUARANTEE -- LIMITATION AS TO CERTAIN REFUNDED BONDS.

(1) (a) The state of Idaho pledges to and agrees with the holders of any bonds that the state will not alter, impair, or limit the rights vested by the default avoidance program with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged.

(b) Notwithstanding subsection (1)(a) of this section, nothing contained in this chapter precludes an alteration, impairment, or limitation if adequate provision is made by law for the protection of the holders of the bonds.

(c) Each school district may refer to this pledge and undertaking by the state in its bonds.

(2) (a) The sales tax of the state is pledged to guarantee full and timely payment of the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, voter approved bonds which were voted on by the electorate on and after March 1, 1999, as such payments shall become due (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration).

(b) This guaranty does not extend to the payment of any redemption premium.

- (c) Reference to this chapter by its title on the face of any bond conclusively establishes the guaranty provided to that bond under provisions of this chapter.
- (3) (a) Any bond guaranteed under this chapter that is refunded and considered paid for, no longer has the benefit of the guaranty provided by this chapter from and after the date on which that bond was considered to be paid.
- (b) Any refunding bond issued by a board that is itself secured by government obligations until the proceeds are applied to pay refunded bonds is not guaranteed under the provisions of this chapter, until the refunding bonds cease to be secured by government obligations.
- (4) Only validly issued bonds issued after the effective date of this chapter are guaranteed under this chapter.

33-5304. PROGRAM ELIGIBILITY -- OPTION TO FOREGO GUARANTY.

- (1) (a) Any school district through its board of trustees or its superintendent may request that the state treasurer issue a certificate evidencing eligibility for the state's guaranty of its eligible bonds under this chapter.
- (b) After reviewing the request, if the state treasurer determines that the board is eligible, the state treasurer shall promptly issue the certificate and provide it to the requesting board.
- (c) (i) The school district receiving the certificate and all other persons may rely on the certificate as evidencing eligibility for the guaranty for one (1) year from and after the date of the certificate, without making further inquiry of the state treasurer during the year. The certificate of eligibility shall state that the guarantee is good for the life of the bond. This guarantee shall be printed on all bonds guaranteed pursuant to this chapter or shall be an addendum attached to all bonds guaranteed pursuant to this chapter.
- (ii) The certificate of eligibility is valid for the life of the bond, even if the state treasurer later determines that the school district is ineligible. If the state treasurer later determines that the school district is ineligible, the treasurer shall publish a twenty (20) days' notice as provided in section 60-109, Idaho Code, in a newspaper of general circulation in the county of the school district and in a newspaper in the county where the state capitol is located regarding the ineligibility. Additionally, the treasurer shall notify the underwriter of the bonds and the bond counsel of its office's finding. The underwriter and the bond counsel shall make a good faith effort to notify holders of the bonds of the treasurer's determination.
- (2) Any board that chooses to forego the benefits of the guaranty provided by this chapter for a particular issue of bonds may do so by not referring to this chapter on the face of its bonds.
- (3) Any district that has bonds, the principal of or interest on which has been paid, in whole or in part, by the state under this chapter may not issue any additional bonds guaranteed by this act until:

(a) All payment obligations of the district to the state under the default avoidance program are satisfied; and

(b) The state treasurer certifies in writing, to be kept on file by the state treasurer, that the school district is fiscally solvent.

(4) Bonds not guaranteed by this chapter are not included in the definition of "bond" in section 33-5302, Idaho Code, as used generally in this chapter, are not subject to the requirements of and do not receive the benefits of this chapter.

33-5305. STATE TREASURER TO MONITOR FISCAL SOLVENCY OF SCHOOL DISTRICTS -- DUTIES OF STATE TREASURER AND ATTORNEY GENERAL. (1) The state treasurer shall:

(a) Monitor the financial affairs and condition of each school district in the state to evaluate each school district's financial solvency;

(b) At least annually, report his conclusions to the governor, the legislature and the state superintendent of public instruction; and

(c) Report immediately to the governor and superintendent of public instruction any circumstances suggesting that a school district will be unable to timely meet its debt service obligations and recommend a course of remedial action.

(2) (a) After examining the report of the school district, the state treasurer shall determine whether or not the financial affairs and condition of a board are such that it would be imprudent for the state to guarantee the bonds of that school district.

(b) If the state treasurer determines that the state should not guarantee the bonds of that board, the state treasurer shall:

(i) Prepare a determination of ineligibility;

(ii) Keep it on file in the office of the state treasurer; and

(iii) Make the necessary advertisements and notifications as provided in section 33-5304, Idaho Code.

(c) The state treasurer may remove a district from the status of ineligibility when a subsequent report of the school district or other information made available to the state treasurer evidences that it is no longer imprudent for the state to guarantee the bonds of that board.

(3) Nothing in this section affects the state's guaranty of bonds of a board issued:

(a) Before determination of ineligibility;

(b) After the eligibility of the board is restored; or

(c) Under a certificate of eligibility issued under this chapter.

33-5306. PAYING AGENT TO PROVIDE NOTICE -- STATE TREASURER TO EXECUTE TRANSFER TO PAYING AGENTS -- EFFECT OF TRANSFER.

(1) (a) The superintendent of each school district with outstanding, unpaid bonds shall transfer moneys sufficient for the scheduled debt service payment to its paying agent at least fifteen (15) days before any principal or interest payment date for the bonds.

(b) The paying agent may, if instructed to do so by the superin-

tendent, invest the moneys at the risk and for the benefit of the board until the payment date.

(c) A superintendent who is unable to transfer the scheduled debt service payment to the paying agent fifteen (15) days before the payment date shall immediately notify the paying agent and the state treasurer by:

- (i) Telephone;
- (ii) A writing sent by facsimile transmission; and
- (iii) A writing sent by first-class United States mail.

(2) If sufficient funds are not transferred to the paying agent as required by subsection (1) of this section, the paying agent shall notify the state treasurer of that failure in writing at least ten (10) days before the scheduled debt service payment date by:

- (a) Telephone;
- (b) A writing sent by facsimile transmission; and
- (c) A writing sent by first-class United States mail.

(3) (a) If sufficient moneys to pay the scheduled debt service payment have not been transferred to the paying agent, the state treasurer shall, on or before the scheduled payment date, transfer sufficient moneys to the paying agent to make the scheduled debt service payment.

(b) The payment by the treasurer:

- (i) Discharges the obligation of the issuing board to its bondholders for the payment; and
- (ii) Transfers the rights represented by the general obligation of the board from the bondholders to the state.

(c) The board shall pay the transferred obligation to the state as provided in this chapter.

33-5307. STATE FINANCIAL ASSISTANCE INTERCEPT MECHANISM -- STATE TREASURER DUTIES -- INTEREST AND PENALTY PROVISIONS.

(1) (a) If one (1) or more payments on bonds are made by the state treasurer as provided in this chapter, the state treasurer shall:

- (i) Immediately intercept any payments from the public school permanent endowment fund or from any other source of operating moneys provided by the state to the board that issued the bonds that would otherwise be paid to the board by the state; and
- (ii) Apply the intercepted payments to reimburse the state for payments made pursuant to the state's guaranty until all obligations of the board to the state arising from those payments, including interest and penalties, are paid in full.

(b) The state has no obligation to the district or to any person or entity to replace any moneys intercepted under the authority of this subsection.

(2) The school district that issued bonds for which the state has made all or part of a debt service payment shall:

- (a) Reimburse all moneys drawn by the state treasurer on its behalf;
- (b) Pay interest to the state on all moneys paid by the state from the date the moneys drawn to the date they are repaid at a rate not less than the average prime rate for national money cen-

ter banks plus one percent (1%); and

(c) Pay all penalties required by this chapter.

(3) (a) The state treasurer shall establish the reimbursement interest rate after considering the circumstances of any prior draws by the district on the state, market interest and penalty rates, and the cost of funds, if any, that were required to be borrowed by the state to make payments on the bonds.

(b) The state treasurer may, after considering the circumstances giving rise to the failure of the board to make payment on its bonds in a timely manner, impose on the board a penalty of not more than five percent (5%) of the amount paid by the state pursuant to its guaranty for each instance in which a payment by the state is made.

(4) (a) (i) If the state treasurer determines that amounts obtained under this section will not reimburse the state in full within one (1) year from the state's payment of a district's scheduled debt service payment, the state treasurer shall pursue any legal action, including mandamus, against the district and its board to compel it to:

1. Levy and provide tax revenues to pay debt service on its bonds when due; and

2. Meet its repayment obligations to the state.

(ii) In pursuing its rights under paragraph (a) of this subsection, the state shall have the same substantive and procedural rights as would a holder of the bonds of a school district.

(b) The attorney general shall assist the state treasurer in these duties.

(c) The school district shall pay the attorney's fees, expenses, and costs of the state treasurer and the attorney general.

(5) (a) Except as provided in paragraph (c) of this subsection, any district whose operating funds were intercepted under this section may replace those funds from other district moneys or from property taxes, subject to the limitations provided in this subsection.

(b) A district may use property taxes or other moneys to replace intercepted funds only if the property taxes or other moneys were derived from:

(i) Taxes originally levied to make the payment but which were not timely received by the district;

(ii) Taxes from a supplemental levy made to make the missed payment or to replace the intercepted moneys;

(iii) Moneys transferred from the undistributed reserve, if any, of the district; or

(iv) Any other source of money on hand and legally available.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection, a district may not replace operating funds intercepted by the state with moneys collected and held to make payments on bonds if that replacement would divert moneys from the payment of future debt service on the bonds and increase the risk that the state's guaranty would be called upon a second time.

33-5308. BACKUP LIQUIDITY ARRANGEMENTS -- ISSUANCE OF NOTES.

- (1) (a) If, at the time the state is required to make a debt service payment under its guaranty on behalf of a school district, sufficient moneys of the state are not on hand and available for that purpose, the state treasurer may:
- (i) Seek a loan from the public school guarantee fund sufficient to make the required payment; or
 - (ii) Issue state notes as provided in subsection (2) of this section.
- (b) Nothing in this subsection requires the public school permanent endowment fund to lend moneys to the state treasurer.
- (c) Each series of notes issued may not mature later than twelve (12) months from the date the notes are issued, or the end of the fiscal year, whichever is sooner.
- (d) Notes issued may be refunded using the procedures set forth in this chapter for the issuance of notes, in an amount not more than the amount necessary to pay principal of an accrued but unpaid interest on any refunded notes plus all costs of issuance, sale and delivery of the refunding notes, rounded up to the nearest natural multiple of five thousand dollars (\$5,000).
- (e) Each series of refunding notes may not mature later than twelve (12) months from the date the refunding notes are issued, or the end of the fiscal year, whichever is sooner.
- (2) (a) Before issuing or selling any note to other than a state fund or account, the state treasurer shall:
- (i) Prepare a written plan of financing; and
 - (ii) File it with the governor.
- (b) The plan of financing shall provide for:
- (i) The terms and conditions under which the notes will be issued, sold and delivered;
 - (ii) The taxes or revenues to be anticipated;
 - (iii) The maximum amount of notes that may be outstanding at any one (1) time under the plan of financing;
 - (iv) The sources of payment of the notes;
 - (v) The rate or rates of interest, if any, on the notes or a method, formula or index under which the interest rate or rates on the notes may be determined during the time the notes are outstanding; and
 - (vi) All other details relating to the issuance, sale and delivery of the notes.
- (c) In identifying the taxes or revenues to be anticipated and the sources of payment of the notes in the financing plan, the state treasurer may include:
- (i) The taxes authorized by this chapter;
 - (ii) The intercepted revenues authorized by this chapter;
 - (iii) The proceeds of refunding notes; or
 - (iv) Any combination of subparagraphs (i), (ii) and (iii) of this paragraph.
- (d) The state treasurer may include in the plan of financing the terms and conditions of arrangements entered into by the state treasurer on behalf of the state with financial and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing and tender agreements

to secure the notes, including payment from any legally available source of fees, charges or other amounts coming due under the agreements entered into by the state treasurer.

(e) When issuing the notes, the state treasurer shall issue an order setting forth the interest, form, manner of execution, payment, manner of sale, prices at, or below face value, and all details of issuance of the notes.

(f) The order and the details set forth in the order shall conform with any applicable plan of financing and with this chapter.

(g) (i) Each note shall recite that it is a valid obligation of the state and that the full faith, credit, and resources of the state are pledged for the payment of the principal of and interest on the note from the taxes or revenues identified in accordance with its terms and the constitution and laws of Idaho.

(ii) These general obligation notes do not constitute debt of the state for the purposes of the debt limitation of section 1, article VIII, of the constitution of the state of Idaho.

(h) Immediately upon the completion of any sale of notes, the state treasurer shall:

(i) Make a verified return of the sale to the state controller, specifying the amount of notes sold, the persons to whom the notes were sold, and the price, terms and conditions of the sale; and

(ii) Credit the proceeds of the sale, other than accrued interest and amounts required to pay costs of issuance of the notes, to the general fund to be applied to the purpose for which the notes were issued.

33-5309. UNLIMITED SALES TAX ACCOUNT PLEDGE -- STATE TAX COMMISSION DUTIES.

(1) (a) In each year after the issuance of general obligation notes under this chapter and until all outstanding notes are retired, there shall be transferred from the state sales tax account pursuant to section 63-3638, Idaho Code, an amount sufficient to pay all principal of and interest on the general obligation notes as they become due.

(b) If moneys expected to be intercepted under this chapter are expected to be insufficient to reimburse the state for its payments of school districts' scheduled debt service payments or it is necessary for the state treasurer to borrow as provided in this chapter and amounts to be intercepted under this chapter are expected to be insufficient to timely pay the general obligation notes issued or other borrowing undertaken under that section, the state treasurer shall certify to and give notice to the state tax commission of the amount of the deficiency.

(c) After receipt of that certified notice from the state treasurer, the state tax commission shall:

(i) Immediately fix the amount necessary and in the amount of the deficiency stated in the notice; and

(ii) Cause moneys to be transferred from the state sales tax account pursuant to section 63-3638, Idaho Code, and deposited in the public school guarantee fund which is hereby

statutorily created.

(2) To the extent that other legally available revenues and funds of the state are sufficient to meet the certified deficiency, the moneys transferred from the sales tax account in section 63-3638, Idaho Code, is abated.

33-5310. WHEN CREDIT ENHANCEMENT PROGRAM TAKES EFFECT. The credit enhancement program for school district bonds and loans pursuant thereto as provided in section 57-728, Idaho Code, shall take effect if the state treasurer certifies that moneys from the sales tax account or from the provisions of this chapter are insufficient to pay the principal of and interest on the general obligation notes issued pursuant to section 33-5308, Idaho Code, and due and payable, and so notifies the endowment fund investment board in writing.

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 chapter 53, title 33, Idaho Code.

(e) Six 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 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 considered by the counties and other taxing districts and budgeted against at the same time, in the same manner and in the same year as revenues from taxation on all classes of personal property which these moneys replace.

(3) All moneys distributed pursuant to subsection (e) shall be subject to the redistribution provisions of section 40-801, Idaho Code, where applicable.

(f) One dollar (\$1.00) on each application for certificate of title to a motor vehicle, or initial application for registration processed by the county assessor or the Idaho transportation department excepting those applications in which any sales or use taxes due have been previously collected by a retailer, shall be a fee for the services of the assessor of the county or the Idaho transportation department in collecting such taxes, and shall be paid into the current expense fund of the county or state highway account established in section 40-702, Idaho Code.

(g) Seven and three-quarters percent (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 percent (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 percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment purposes for that city bears to the preceding year's market value for assessment purposes for all cities within the state.

(2) One-half (1/2) shall be paid to the state's general account or to the various counties as follows:

(i) One million three hundred twenty thousand dollars (\$1,320,000) shall be distributed one forty-fourth (1/44) to each of the various counties; and

(ii) The balance of such amount shall be paid to the various counties, and each county shall be entitled to an amount in the proportion that the population of that county bears to the population of the state.

(h) Any moneys remaining over and above those necessary to meet and reserve for payments under other subsections of this section shall be distributed to the general account.

SECTION 3. 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 57-728, Idaho Code, and to read as follows:

57-728. CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICT BONDS. (1) The endowment fund investment board shall administer a school district bond credit enhancement program in accordance with this section and in conjunction with chapter 53, title 33, Idaho Code, and may promulgate rules to implement it. This program applies to voter approved bonds issued by school districts. The program is intended to benefit school districts by purchasing notes issued by the state of Idaho, whereby

the state may guarantee payment of school district bonded indebtedness in order to avoid an imminent default, providing lower interest rates at which the bonds may be issued.

(2) A school district that seeks the guarantee of bonds under this program shall apply to the state treasurer pursuant to section 33-5304, Idaho Code. The state treasurer shall transmit all approved applications to the board. The board may challenge an approved application within three (3) business days of their receipt of the same. If no challenge is issued within three (3) business days the application shall be deemed approved by the board. In the event of a challenge in writing to the state treasurer, the treasurer and the board shall have ten (10) business days to mutually approve the application. If after a challenge by the board, the application is not mutually approved within the ten (10) business days, the application shall be deemed rejected. Nothing contained herein shall prohibit a school district from reapplying following a rejected application.

(3) Upon approval of the credit enhancement program under this section, the following shall be in effect in the event moneys from the sales tax account or from the provisions of section 33-5309, Idaho Code, are insufficient to pay the principal of and interest on the notes issued by the state pursuant to section 33-5308, Idaho Code, the endowment fund shall purchase new notes from the state, in accordance with section 33-5308, Idaho Code, the proceeds of which shall be sufficient to pay the principal of and the interest on the original notes as they become due pursuant to section 33-5308, Idaho Code. The new notes shall be subject to the following terms and conditions:

(a) The notes shall bear interest at a rate equal to an annual rate ten percent (10%) higher than the average interest earned on the investments of the public school permanent endowment fund in the four (4) calendar quarters preceding the quarter in which the loan occurred and if this figure is not equal to the percentage return of the fund's highest category of investments in its portfolio, then the interest rate shall equal that percentage return on investment, plus all additional administrative costs related to these investments;

(b) The notes, including principal and interest, shall be repaid from the district's next payments pursuant to chapter 8, title 33, Idaho Code, as collected by the state treasurer;

(c) The state may make additional payments on the note;

(d) The endowment fund investment board may require the state treasurer to compel the school district to modify its fiscal practices and its general operations if the board determines that there is a substantial likelihood that the district will not be able to make future payments required under this section.

(4) The provisions of this section shall not be deemed to interfere with the state treasurer's ability in chapter 53, title 33, Idaho Code, to obtain repayment of a delinquent obligation.

(5) For purposes of administering the provisions of this section, the board shall make available the sum of at least one hundred million dollars (\$100,000,000) from the public school permanent endowment fund, for purposes of purchasing notes as authorized by this section.

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, 1999.

CHAPTER 329
(S.B. No. 1246, As Amended)

AN ACT

RELATING TO VOCATIONAL EDUCATION; AMENDING SECTION 33-123, IDAHO CODE, TO PROVIDE FOR PROFESSIONAL-TECHNICAL TRAINING; AMENDING SECTION 33-1002G, IDAHO CODE, TO PROVIDE REFERENCE TO PROFESSIONAL-TECHNICAL EDUCATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-1252, IDAHO CODE, TO CHANGE REFERENCES FOR THE DIVISION OF VOCATIONAL EDUCATION TO THE DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTION 33-1612, IDAHO CODE, TO PROVIDE FOR ENTRANCE TO PROFESSIONAL-TECHNICAL POSTSECONDARY EDUCATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-2202, IDAHO CODE, TO CHANGE REFERENCES FOR VOCATIONAL EDUCATION TO PROFESSIONAL-TECHNICAL EDUCATION, TO CHANGE REFERENCES FOR THE STATE BOARD FOR VOCATIONAL EDUCATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION AND TO PROVIDE A DEFINITION; AMENDING SECTION 33-2203, IDAHO CODE, TO CHANGE REFERENCES FOR VOCATIONAL EDUCATION TO PROFESSIONAL-TECHNICAL EDUCATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-2204, IDAHO CODE, TO CHANGE REFERENCES FOR THE STATE BOARD FOR VOCATIONAL EDUCATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION AND TO PROVIDE FOR FOUR REGULAR MEETINGS ANNUALLY; AMENDING SECTION 33-2205, IDAHO CODE, TO CHANGE REFERENCES FOR THE STATE BOARD FOR VOCATIONAL EDUCATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION AND TO CHANGE REFERENCES FOR THE ADMINISTRATOR OF VOCATIONAL EDUCATION TO THE ADMINISTRATOR OF PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTION 33-2206, IDAHO CODE, TO CHANGE REFERENCES FOR VOCATIONAL EDUCATION TO PROFESSIONAL-TECHNICAL EDUCATION AND TO CHANGE REFERENCES FOR THE STATE BOARD FOR VOCATIONAL EDUCATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTION 33-2207, IDAHO CODE, TO CHANGE REFERENCES FOR VOCATIONAL EDUCATION TO PROFESSIONAL-TECHNICAL EDUCATION, TO CHANGE REFERENCES FOR THE STATE BOARD FOR VOCATIONAL EDUCATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2208, IDAHO CODE, TO CHANGE REFERENCES FOR THE STATE BOARD FOR VOCATIONAL EDUCATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION, TO CHANGE A REFERENCE FROM VOCATIONAL-TECHNICAL TRAINING TO PROFESSIONAL-TECHNICAL TRAINING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2209, IDAHO CODE, TO CHANGE REFERENCES FOR THE STATE BOARD FOR VOCATIONAL EDUCATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTIONS 33-2210 AND 33-2211, IDAHO CODE, TO CHANGE REFERENCES FOR THE STATE BOARD FOR VOCATIONAL EDUCATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTIONS

33-2212, 33-2303, 33-2306 AND 33-2308, IDAHO CODE, TO CHANGE REFERENCES FOR THE STATE BOARD FOR VOCATIONAL EDUCATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTION 33-4305, IDAHO CODE, TO PROVIDE FOR SCHOLARSHIPS FOR PROFESSIONAL-TECHNICAL PROGRAMS; AMENDING SECTION 33-4306, IDAHO CODE, TO CHANGE REFERENCES FOR THE STATE BOARD FOR VOCATIONAL EDUCATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-4603, IDAHO CODE, TO PROVIDE FOR SCHOLARSHIPS FOR PROFESSIONAL-TECHNICAL PROGRAMS; AMENDING SECTION 33-4803, IDAHO CODE, TO CHANGE REFERENCES FOR THE VOCATIONAL EDUCATION SYSTEM TO THE PROFESSIONAL-TECHNICAL EDUCATION SYSTEM; AMENDING SECTION 39-4902, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO CHANGE REFERENCES FOR THE DEPARTMENT OF VOCATIONAL EDUCATION TO REFERENCES TO THE DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTIONS 39-5009 AND 54-1007, IDAHO CODE, TO CHANGE REFERENCES FOR THE STATE BOARD FOR VOCATIONAL EDUCATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTION 67-3521, IDAHO CODE, TO PROVIDE FOR ENCUMBRANCES TO PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTION 67-5303, IDAHO CODE, TO CHANGE REFERENCES FOR THE STATE BOARD FOR VOCATIONAL EDUCATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION AND TO CHANGE REFERENCES FOR THE DEPARTMENT OF VOCATIONAL EDUCATION TO REFERENCES TO THE DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTION 72-517, IDAHO CODE, TO CHANGE REFERENCES FOR THE STATE BOARD OF VOCATIONAL EDUCATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTION 33-107B, IDAHO CODE, TO CHANGE REFERENCE TO POSTSECONDARY VOCATIONAL EDUCATION TO POSTSECONDARY PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTION 33-1002, IDAHO CODE, TO CHANGE REFERENCE TO VOCATIONAL POSTSECONDARY EDUCATION PROGRAMS TO POSTSECONDARY PROFESSIONAL-TECHNICAL EDUCATION PROGRAMS; AMENDING SECTION 33-2110, IDAHO CODE, TO CHANGE REFERENCES TO VOCATIONAL EDUCATION TO PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTION 33-2401, IDAHO CODE, TO ADD REFERENCES TO PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTION 33-3002, IDAHO CODE, TO CHANGE REFERENCES TO VOCATIONAL COURSES TO PROFESSIONAL-TECHNICAL COURSES; AMENDING SECTION 33-3101, IDAHO CODE, TO CHANGE REFERENCE TO VOCATIONAL COURSES AND INCLUDE PROFESSIONAL-TECHNICAL COURSES; AMENDING SECTION 33-4001, IDAHO CODE, TO CHANGE REFERENCES TO VOCATIONAL PROGRAMS TO PROFESSIONAL-TECHNICAL PROGRAMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-4302, IDAHO CODE, TO CHANGE REFERENCES TO VOCATIONAL-TECHNICAL SCHOOLS TO PROFESSIONAL-TECHNICAL SCHOOLS; AMENDING SECTION 33-4302A, IDAHO CODE, TO CHANGE REFERENCE TO VOCATIONAL-TECHNICAL SCHOOLS TO PROFESSIONAL-TECHNICAL SCHOOLS; AMENDING SECTION 33-4403, IDAHO CODE, TO CHANGE REFERENCES TO VOCATIONAL-TECHNICAL PROGRAMS TO PROFESSIONAL-TECHNICAL PROGRAMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 59-1302, IDAHO CODE, TO CHANGE REFERENCES TO VOCATIONAL-TECHNICAL CENTERS TO PROFESSIONAL-TECHNICAL CENTERS; AMENDING SECTION 67-6902, IDAHO CODE, TO CHANGE REFERENCES TO VOCATIONAL-TECHNICAL TRAINING TO PROFESSIONAL-TECHNICAL TRAINING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1347B, IDAHO CODE, TO CHANGE REFERENCE TO VOCATIONAL EDUCATION TO PROFESSIONAL-TECHNICAL EDUCA-

TION; AND AMENDING SECTION 72-501A, IDAHO CODE, TO CHANGE REFERENCE TO THE STATE BOARD OF VOCATIONAL REHABILITATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION.

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

SECTION 1. That Section 33-123, Idaho Code, be, and the same is hereby amended to read as follows:

33-123. EDUCATION FOR INMATES UNDER JURISDICTION OF DEPARTMENT OF CORRECTION. The state board, in cooperation with the state board of correction, shall have prepared suitable courses of study, including ~~vocational~~ professional-technical training, for prisoners held under the jurisdiction of the department of correction, and the state board of correction shall make arrangements carrying into effect all provisions for the education of prisoners who are under the jurisdiction of the department of correction to the extent possible within the limits of moneys appropriated by the state legislature. Such educational opportunities shall be limited to those inmates who have a need, such need to be determined by the staff of the department of correction, and can benefit from training, and those inmates whose degree of custody classification allows participation in the classroom environment provided.

SECTION 2. That Section 33-1002G, Idaho Code, be, and the same is hereby amended 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~~ professional-technical education, to be expended by the division of ~~vocational~~ professional-technical 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~~ professional-technical education on or before the first Friday in July for the following fiscal year. For fiscal year 1999, 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.

SECTION 3. That Section 33-1252, Idaho Code, be, and the same is hereby amended to read as follows:

33-1252. PROFESSIONAL STANDARDS COMMISSION -- MEMBERS -- APPOINTMENT -- TERMS. A professional standards commission is hereby created in the department of education, consisting of eighteen (18) members, one (1) of whom shall be a member of the staff of the state department of education, and one (1) of whom shall be a member of the staff of the division of ~~vocational~~ professional-technical education, to be appointed by the state board of education. The members shall be representative of the teaching profession of the state of Idaho, and not less than seven (7) members shall be certificated classroom teachers in the public school system of the state and shall include at least one (1) teacher of exceptional children and at least one (1) teacher in pupil personnel services. Such expansion of membership on the professional standards commission shall not require reaffirmation of the codes and standards of ethics and rules of procedure used by the professional standards commission.

Except for the member from the staff of the state department of education, and the member from the staff of the division of ~~vocational~~ professional-technical education, three (3) nominees for each position on the commission shall be submitted to the state superintendent of public instruction, for the consideration of the state board of education. Any state organization of teachers whose membership is open to all certificated teachers in the state may submit nominees for positions to be held by classroom teachers; the Idaho association of school superintendents may submit nominees for one (1) position, the Idaho association of secondary school principals may submit nominees for one (1) position; the Idaho association of elementary school principals may submit nominees for one (1) position; the Idaho association of school trustees may submit nominees for one (1) position; the Idaho association of special education administrators may submit nominees for one (1) position; the education departments of the private colleges of the state may submit nominees for one (1) position, the community colleges and the education departments of the public institutions of higher education may submit nominees for two (2) positions, and the colleges of letters and sciences of the institutions of higher education may submit nominees for one (1) position.

The state board of education shall appoint or reappoint members of the commission for terms of three (3) years.

SECTION 4. That Section 33-1612, Idaho Code, be, and the same is hereby amended to read as follows:

33-1612. THOROUGH SYSTEM OF PUBLIC SCHOOLS. The constitution of the state of Idaho, section 1, article IX, charges the legislature with the duty to establish and maintain a general, uniform and thorough system of public, free common schools. In fulfillment of this duty, the people of the state of Idaho have long enjoyed the benefits of a public school system, supported by the legislature, which has recognized the value of education to the children of this state.

In continuing recognition of the fundamental duty established by the constitution, the legislature finds it in the public interest to define thoroughness and thereby establish the basic assumptions which govern provision of a thorough system of public schools.

A thorough system of public schools in Idaho is one in which:

1. A safe environment conducive to learning is provided;
2. Educators are empowered to maintain classroom discipline;
3. The basic values of honesty, self-discipline, unselfishness, respect for authority and the central importance of work are emphasized;
4. The skills necessary to communicate effectively are taught;
5. A basic curriculum necessary to enable students to enter academic or ~~vocational~~ post-secondary professional-technical post-secondary educational programs is provided;
6. The skills necessary for students to enter the work force are taught;
7. The students are introduced to current technology; and
8. The importance of students acquiring the skills to enable them to be responsible citizens of their homes, schools and communities is emphasized.

The state board shall adopt rules, pursuant to the provisions of chapter 52, title 67, Idaho Code, and section 33-105(3), Idaho Code, to establish a thorough system of public schools with uniformity as required by the constitution, but shall not otherwise impinge upon the authority of the board of trustees of the school districts. Authority to govern the school district, vested in the board of trustees of the school district, not delegated to the state board, is reserved to the board of trustees. Fulfillment of the expectations of a thorough system of public schools will continue to depend upon the vigilance of district patrons, the dedication of school trustees and educators, the responsiveness of state rules, and meaningful oversight by the legislature.

SECTION 5. That Section 33-2202, Idaho Code, be, and the same is hereby amended to read as follows:

33-2202. STATE BOARD FOR ~~VOCATIONAL~~ PROFESSIONAL-TECHNICAL EDUCATION -- POWERS AND DUTIES. The state board of education is hereby designated as the state board for ~~vocational~~ professional-technical education for the purpose of carrying into effect the provisions of the federal act, known as the Smith-Hughes Act, amendments thereto and any subsequent acts now or in the future enacted by the Congress affecting vocational education, and is hereby authorized to cooperate with the

United States office of education, vocational division, or any other agency of the United States designated to administer such legislation, in the administration and enforcement of the provisions of said act, or acts, and to exercise such powers and perform such acts as are necessary to entitle the state of Idaho to receive the benefits of the same, and to execute the laws of the state of Idaho relative to ~~vocational~~ professional-technical education; to administer the funds provided by the federal government and the state of Idaho under the provisions of this chapter for promotion of education in agricultural subjects, trade and industrial subjects, and home economics subjects and other subjects authorized by the board. Incident to the other powers and duties of the board ~~of vocational~~ for professional-technical education, the board ~~of vocational-education~~ may hold title to real property.

As used in this title, unless otherwise specifically defined, the term "professional-technical education" means secondary, postsecondary and adult courses, programs, training and services administered by the division of professional-technical education for occupations or careers that require other than a baccalaureate, master's or doctoral degree. The courses, programs, training and services include, but are not limited to, vocational, technical and applied technology education. They are delivered through the professional-technical delivery system of public secondary and postsecondary schools and colleges.

SECTION 6. That Section 33-2203, Idaho Code, be, and the same is hereby amended to read as follows:

33-2203. FURTHER POWERS OF BOARD. It shall have full power to formulate plans for the promotion of ~~vocational~~ professional-technical education in such subjects as are an essential and integral part of the public school system of the state of Idaho, and to provide for the preparation of teachers of such subjects. It shall have full power to fix the compensation of such officials and assistants as may be necessary to administer the federal act herein referred to, and to pay such compensation and other necessary expenses of administration from funds appropriated in this chapter and from money received under the provisions of the federal act. It shall have authority to make studies and investigations relating to ~~vocational~~ professional-technical education in such subjects, to promote and aid in the establishment of local communities of schools, departments or classes, giving training in such subjects; to cooperate with the local communities in the maintenance of such schools, departments or classes; to prescribe qualifications for teachers, directors and supervisors for such subjects, and to have full authority to provide for the certification of such teachers, directors and supervisors, subject to the laws and rules governing the state board of education; to cooperate in the maintenance of classes supported and controlled by the public for the preparation of teachers, directors and supervisors of such subjects, or to maintain such classes under its own direction and control; to establish and determine by general regulation rule the qualifications to be possessed by persons engaged in the training of ~~vocational~~ professional-technical teachers.

SECTION 7. That Section 33-2204, Idaho Code, be, and the same is hereby amended to read as follows:

33-2204. MEETINGS OF STATE BOARD. The state board of education, when acting as the state board for ~~vocational~~ professional-technical education, shall hold ~~two-(2)~~ four (4) regular meetings annually at such time and place as may be directed by said board, but special meetings may be called at any time and at a place designated in said call by the president.

SECTION 8. That Section 33-2205, Idaho Code, be, and the same is hereby amended to read as follows:

33-2205. STATE BOARD TO APPOINT ADMINISTRATOR -- DESIGNATION OF ASSISTANTS -- DUTIES. The state board of education shall appoint a person to serve as an administrator to the state board for ~~vocational~~ professional-technical education, who shall be known as the administrator of ~~vocational~~ professional-technical education. He shall designate, by and with the advice and consent of the state board for ~~vocational~~ professional-technical education, such assistants as may be necessary to properly carry out the provisions of the federal acts and this chapter for the state of Idaho.

The administrator of ~~vocational~~ professional-technical education shall also carry into effect such rules ~~and regulations~~ as the state board for ~~vocational~~ professional-technical education may adopt, and shall coordinate all efforts in ~~vocational~~ professional-technical education approved by the board with the executive secretary, and shall prepare such reports concerning the condition of ~~vocational~~ professional-technical education in the state as the state board for ~~vocational~~ professional-technical education may require.

SECTION 9. That Section 33-2206, Idaho Code, be, and the same is hereby amended to read as follows:

33-2206. REPORTS. The state board for ~~vocational~~ professional-technical education shall make annually to the governor and legislature a report of all moneys expended for ~~vocational~~ professional-technical education both from state and federal funds, and shall include such annual report in the annual report of the state board of education.

SECTION 10. That Section 33-2207, Idaho Code, be, and the same is hereby amended to read as follows:

33-2207. CUSTODY AND DISBURSEMENT OF MONEYS APPROPRIATED. The state treasurer is hereby designated and appointed custodian of all moneys received by the state from the appropriation made by said act of Congress, and he is authorized to receive and to provide for the proper custody of the same and to make disbursement thereof in the manner provided in the said act, and for the purposes therein specified. He shall also pay out any moneys appropriated by the state of Idaho for the promotion of ~~vocational~~ professional-technical education in accordance with the provisions of sections 33-2201-- through

33-2207, Idaho Code, and upon the order of the state board for ~~vocational~~ professional-technical education.

SECTION 11. That Section 33-2208, Idaho Code, be, and the same is hereby amended to read as follows:

33-2208. EASTERN IDAHO TECHNICAL COLLEGE CREATED. There is hereby established in Bonneville County, Idaho a ~~post-secondary~~ post-secondary technical college to be designated and known as the Eastern Idaho Technical College, consisting of such ~~vocational-and~~ professional-technical training programs, including academic courses necessarily included in such programs as the state board for ~~vocational~~ professional-technical education may, from time to time, authorize.

SECTION 12. That Section 33-2209, Idaho Code, be, and the same is hereby amended to read as follows:

33-2209. COLLEGE IS BODY POLITIC AND CORPORATE -- SEAL -- POWER TO SUE AND BE SUED. The Eastern Idaho Technical College is hereby declared to be a body politic and corporate, with its own seal and having power to sue and be sued in its own name. The general supervision, government and control of the Eastern Idaho Technical College is vested in the state board ~~of vocational~~ for professional-technical education of the state of Idaho.

SECTION 13. That Section 33-2210, Idaho Code, be, and the same is hereby amended to read as follows:

33-2210. PROGRAMS AND COURSES OFFERED -- CERTIFICATES AND DEGREES. The Eastern Idaho Technical College shall offer and give instruction in ~~vocational--and~~ professional-technical programs or courses as approved by the state board for ~~vocational~~ professional-technical education. Such courses or programs may be given or conducted on or off campus, or in night school, summer school, or by extension courses. The state board for ~~vocational~~ professional-technical education shall grant certificates or associate of applied science degrees for successful completion of courses or programs prescribed by the college.

SECTION 14. That Section 33-2211, Idaho Code, be, and the same is hereby amended to read as follows:

33-2211. POWERS OF STATE BOARD FOR ~~VOCATIONAL~~ PROFESSIONAL-TECHNICAL EDUCATION. The state board for ~~vocational~~ professional-technical education shall have the power:

1. To adopt rules for its own government and the government of the Eastern Idaho Technical College;
2. To employ professional and nonprofessional persons and to prescribe their qualifications;
3. To acquire and hold, and to dispose of, real and personal property, and to construct, repair, remodel and remove buildings;
4. To contract for the acquisition, purchase or repair of build-

ings, in the manner prescribed for trustees of school districts;

5. To dispose of real and personal property in the manner prescribed for trustees of school districts;

6. To convey and transfer real property of the college upon which no buildings used for instruction are situated, to nonprofit corporations, school districts, community college housing commissions, counties or municipalities, with or without consideration; to rent real or personal property for the use of the college, its students or faculty, for such terms as may be determined by the state board for ~~vocational~~ professional-technical education; and to lease real or personal property of the college not actually in use for instructional purposes on such terms as may be determined by the state board for ~~vocational~~ professional-technical education;

7. To acquire, hold, and dispose of, water rights;

8. To accept grants or gifts of money, materials, or property of any kind from any governmental agency, or from any person, firm, or association, on such terms as may be determined by the grantor;

9. To cooperate with any governmental agency, or any person, firm or association in the conduct of any educational program; to accept grants from any source for the conduct of such program, and to conduct such program on, or off, campus;

10. To employ a president of the college and, with his advice, to appoint such assistants, instructors, specialists and other employees as are required for the operation of the college; to fix salaries and prescribe duties; and to remove the president or any other employee for cause;

11. With the advice of the president, to prescribe the courses and programs of study, the requirements for admission, the time and standards for completion of such courses and programs, and to grant certificates or associate of applied science degrees for those students entitled thereto;

12. To employ architects or engineers in planning the construction, remodeling or repair of any building or property and, whenever no other agency is designated by law so to do, to let contracts for such construction, remodeling or repair and to supervise the work thereof;

13. To have at all times, general supervision and control of all property, real and personal, appertaining to the college, and to insure the same.

SECTION 15. That Section 33-2212, Idaho Code, be, and the same is hereby amended to read as follows:

33-2212. CREATION OF ADVISORY COUNCIL -- MEMBERS -- COMPENSATION. The state board for ~~vocational~~ professional-technical education may appoint an advisory council consisting of not less than twelve (12) nor more than fifteen (15) persons to offer counsel and advice in the organization, establishment and conduct of the Eastern Idaho Technical College. Members of the council will serve without salary but shall be compensated as provided by section 59-509(b), Idaho Code. Members of said council shall be appointed from as nearly as is practicable the vocational area to be served by the Eastern Idaho Technical College as determined by the state board for ~~vocational~~ professional-technical

education.

SECTION 16. That Section 33-2303, Idaho Code, be, and the same is hereby amended to read as follows:

33-2303. POWERS OF BOARD IN CARRYING OUT PROVISIONS. The board heretofore designated as the state board for ~~vocational~~ professional-technical education is hereby designated as the state board for the purpose of providing for the vocational rehabilitation of persons with disabilities, other than those who are legally blind, and is empowered and directed to cooperate in the administration of said act of Congress; to prescribe and provide such courses of vocational services as may be necessary for the vocational rehabilitation of persons with disabilities, other than those who are legally blind, and provide for the supervision of such services; to appoint such assistants as may be necessary to administer this act and said act of Congress in this state; to fix the compensation of such assistants and to direct the disbursement and administer the use of all funds provided by the federal government and the state of Idaho for the vocational rehabilitation of such persons.

SECTION 17. That Section 33-2306, Idaho Code, be, and the same is hereby amended to read as follows:

33-2306. REPORT OF STATE BOARD. The state board for ~~vocational~~ professional-technical education shall make annually to the governor and legislature a report of all moneys expended for the vocational rehabilitation of persons with disabilities, other than those who are legally blind, both from state and federal funds, and shall include such annual report in the annual report of the state board of education.

SECTION 18. That Section 33-2308, Idaho Code, be, and the same is hereby amended to read as follows:

33-2308. ESTABLISHMENT OF VOCATIONAL REHABILITATION PROGRAM TO PROVIDE TREATMENT TO PERSONS SUFFERING FROM CHRONIC RENAL DISEASES. The board of ~~vocational~~ for professional-technical education shall establish a vocational rehabilitation program to provide treatment to persons suffering from chronic renal diseases, including dialysis and other medical procedures and techniques which will have a lifesaving effect in the care and treatment of persons suffering from these diseases. The board shall extend financial assistance to persons suffering from chronic renal diseases in obtaining the medical, nursing, pharmaceutical, and technical services necessary to care for such diseases, including the rental or purchase of home dialysis equipment and supplies. The board shall establish standards for determining eligibility for care and treatment under this program in order that treatment shall be provided to those who are financially unable to obtain such treatment without causing severe economic imbalance in the family economic unit. Such standards shall be established without reference to maximum or minimum income levels.

SECTION 19. That Section 33-4305, Idaho Code, be, and the same is hereby amended to read as follows:

33-4305. PURPOSES. The purpose of this act is: (1) To establish a state scholarship program for the most talented Idaho secondary school graduates who will enroll in undergraduate nonreligious academic and ~~vocational~~ professional-technical programs in eligible post-secondary institutions in the state; and

(2) To designate the state board of education and the board of regents of the University of Idaho as the administrative agency for the state scholarship program.

SECTION 20. That Section 33-4306, Idaho Code, be, and the same is hereby amended to read as follows:

33-4306. DEFINITIONS. As used in this act, unless the context otherwise requires:

(1) "Eligible postsecondary institution" means an educational organization within the state as follows:

(a) "Public postsecondary institution" means a public post-secondary organization governed or supervised by the state board of education, the board of regents of the University of Idaho, a board of trustees of a junior community college established pursuant to the provisions of section 33-2106, Idaho Code, or the state board of ~~vocational~~ for professional-technical education.

(b) "Independent colleges and universities" means any educational organization which is operated privately and not for profit under the control of an independent board and not directly controlled or administered by a public or political subdivision.

(2) "Educational costs" means student costs for tuition, fees, room and board, or expenses related to reasonable commuting, books and such other expenses reasonably related to attendance at a post-secondary educational institution.

(3) "Resident student" means an individual as defined in section 33-3717, Idaho Code.

(4) "Full-time student" means an individual who is enrolled in and is carrying a sufficient number of credit hours, or their equivalent; to secure an individual's first degree, certificate, diploma, or less, toward which the individual is working in no more than the number of semesters, or equivalent, normally required by the post-secondary educational institution in the program in which the individual is enrolled.

(5) "Undergraduate student" means an individual who is enrolled in a postsecondary educational institution which leads to or is directly creditable toward the individual's first baccalaureate degree, certificate, diploma, or less; provided such baccalaureate degree, certificate, diploma or less program requires at least six (6) months or equivalent of consecutive attendance. A student engaged in a four (4) year baccalaureate program shall not be terminated by having earned an intermediate degree, certificate, or diploma.

(6) "Enrollment" means the establishment and maintenance of an individual's status as a student in a postsecondary educational institution, regardless of the term used at the institution to describe

such status.

(7) "Eligible student" means any graduate of an accredited secondary school in the state of Idaho who declares his intention to matriculate in an eligible postsecondary institution in the state of Idaho during the educational year immediately following such graduation.

(8) "Grant" means an award to an eligible student for matriculation in an eligible postsecondary institution in the state of Idaho.

(9) "Educational year" means the period from July 1 of a year through June 30 of the succeeding year.

(10) "Competitive examination" means standardized examination(s) measuring achievement administered annually on a voluntary basis on a specified date and at specified locations announced publicly.

(11) "High school record" means an individual's rank in his secondary school class as certified by an official of such secondary school, and an individual's secondary school department as evaluated by at least two (2) officials of such secondary school.

SECTION 21. That Section 33-4603, Idaho Code, be, and the same is hereby amended to read as follows:

33-4603. PURPOSES. The purposes of this chapter are:

(1) To establish a state scholarship program for talented "at-risk" persons who will enroll in undergraduate academic and ~~vocational~~ professional-technical programs in postsecondary institutions in the state; and

(2) To provide Idaho postsecondary institutions a tool to improve the recruitment and graduation rates of Idaho residents who are at-risk persons as defined in this chapter.

SECTION 22. That Section 33-4803, Idaho Code, be, and the same is hereby amended to read as follows:

33-4803. DEFINITIONS. As used in this chapter:

(1) "Educational segments" are, individually, the public elementary and secondary school system, the Idaho school for the deaf and blind, the ~~vocational~~ professional-technical education system, the community colleges, and the four-year colleges and universities.

(2) "IPBS" means the Idaho public broadcasting service.

(3) "Instructional video service providers" means publicly and privately funded television agencies that offer instructional video programming and services without commercial advertising.

(4) "Libraries" means district, city, and school/community libraries as described in chapters 26 and 27, title 33, Idaho Code.

(5) "Technology" means technology-based materials, equipment, systems, and networks.

SECTION 23. That Section 39-4902, Idaho Code, be, and the same is hereby amended to read as follows:

39-4902~~5002~~. DEFINITIONS. For purposes of this chapter:

(a) "Displaced homemaker" means a person who:

(1) Has not worked in the labor force for a substantial number of

years but has, during those years, worked in the home providing household services for family members without salary;

(2) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment;

(3) Has been dependent on the income of another family member but is no longer supported by such income; has been dependent on federally funded assistance but is no longer eligible for such assistance; or is supported as the parent of minor children by government assistance or spousal support but whose children are within two (2) years of reaching their majority, at which time such support will cease.

(b) "Administrator" means the administrator of the ~~department-of vocational~~ division of professional-technical education.

SECTION 24. That Section 39-5009, Idaho Code, be, and the same is hereby amended to read as follows:

39-5009. DISPLACED HOMEMAKER ACCOUNT -- FEES ON FILING OF DIVORCE ACTION. (1) There is hereby created in the state operating fund the displaced homemaker account. All fees collected pursuant to subsection (2) of this section shall be deposited in the account. All moneys in the account shall be available for appropriation to the state board for ~~vocational~~ professional-technical education for the purposes of this chapter.

(2) In addition to any other fees imposed for filing an action for divorce in the district court, there shall be collected a fee of twenty dollars (\$20.00) for each divorce action. The clerk of the district court shall remit such fees, separately identified, to the state treasurer for deposit in the displaced homemaker account. Fees shall be remitted to the state treasurer at the same time as other court fees are remitted.

SECTION 25. That Section 54-1007, Idaho Code, be, and the same is hereby amended to read as follows:

54-1007. ISSUANCE OF LICENSES -- RECIPROCITY. (1) The administrator shall issue licenses to such persons as have by examination shown themselves to be fit, competent and qualified to engage in the trade of journeyman electrician, or master journeyman electrician, and to such persons, firms, partnerships, associations or corporations as have shown themselves to be fit, competent and qualified to engage in the business of electrical contracting. Any person who has worked as a journeyman electrician or as an apprentice electrician, as herein defined, for a period of not less than four (4) years, shall be considered as qualified to apply for a journeyman electrician's license in this state, provided that for each such year he is claiming to have worked as an apprentice electrician, the apprentice registered with the division of building safety as an apprentice, paid an apprentice registration fee, and submitted with his annual application for apprentice registration verification of employment and hours worked. The electrical board may, by rule, fix the apprentice registration fee, in an amount not to exceed the costs of issuing apprentice registration certificates and enforcing the apprentice registration provi-

sions of this act, and may also by rule establish requirements relative to the manner of verification of employment and hours worked. Before such experience as an apprentice may be considered as qualifying the apprentice to take the journeyman's examination, the apprentice must also complete the required related instruction for electrical apprentices as approved by the Idaho state board for ~~vocational~~ professional-technical education. Any person who has worked in this state for a period of not less than two (2) years as a journeyman electrician shall be considered as qualified to apply for a master journeyman electrician's license in this state.

(2) To the extent that other states which provide for the licensing of electricians provide for similar action, the administrator, on the recommendation of the Idaho electrical board, may grant licenses to electricians licensed by such other states, upon payment by the applicant of the required fee and upon furnishing proof to the board that the applicant has qualifications at least equal to those provided herein for applicants for written examinations. Applicants who qualify for a license under this subsection are not required to take a written examination.

SECTION 26. That Section 67-3521, Idaho Code, be, and the same is hereby amended to read as follows:

67-3521. ENCUMBERING APPROPRIATIONS OR EXCESSIVE EXPENDITURES FORBIDDEN -- ENCUMBRANCES TO REVERT -- APPROVAL. (1) No officer, department, bureau or institution, shall encumber any appropriations or be allowed to make any expenditures from appropriations in excess of the spending authority provided by this act.

(2) Encumbrances shall be reported as reductions against appropriations in anticipation of an object coded expenditure, shall be made only for a legally contracted obligation or for the accrued cost of a specific product or service due and payable prior to or as of the end of the current fiscal year or for the term of the contract obligation, and shall not be used as a means of reserving a portion of the appropriation of one (1) fiscal year to be used in combination with the appropriation of the following year. Requests for encumbrances shall be accompanied by proper identification of the accrued cost which must be adequately covered by appropriated funds from the current fiscal year.

(3) Encumbrances not liquidated by payment of the accrued cost during the succeeding fiscal year shall revert to the fund from which encumbered, unless approved for extension by the administrator of the division of financial management.

(4) Requests for encumbrances must have the approval of the administrator of the division of financial management.

(5) Notwithstanding any of the above, all purchase orders issued by the state purchasing agent, or purchase orders issued pursuant to a delegation of purchasing authority to specified state officers and employees, shall be encumbered, and such encumbrance shall not require the approval of the administrator of the division of financial management.

(6) When purchase requisitions are submitted by agencies prior to the state purchasing agent's fiscal year-end cutoff date, but not

processed either due to workload or bid requirements, agencies may submit a request for encumbrance to the administrator of the division of financial management.

(7) The provisions of this section shall not apply to encumbrances involving vocational educational or professional-technical reimbursements to educational institutions or to encumbrances involving contracts for the construction of highways, bridges, buildings or other primary structures or capital improvements.

SECTION 27. That Section 67-5303, Idaho Code, be, and the same is hereby amended to read as follows:

67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state of Idaho and all employees in such departments, except those employees specifically defined as nonclassified, shall be classified employees, who are subject to this act and to the system of personnel administration which it prescribes. Nonclassified employees shall be:

(a) Members of the state legislature and all other officers of the state of Idaho elected by popular vote, and persons appointed to fill vacancies in elective offices, and employees of the state legislature.

(b) Members of statutory boards and commissions and heads of departments appointed by and serving at the pleasure of the governor, deputy directors appointed by the director and members of advisory boards and councils appointed by the departments.

(c) All employees and officers in the office, and at the residence, of the governor; and all employees and officers in the offices of the lieutenant governor, secretary of state, attorney general, state treasurer, state controller, and state superintendent of public instruction who are appointed on and after the effective date of this act.

(d) Except as otherwise provided by law, not more than one (1) declared position for each board or commission and/or head of a participating department in addition to those declared to be nonclassified by other provisions of law.

(e) Part-time professional consultants who are paid on a fee basis for any form of legal, medical or other professional service, and who are not engaged in the performance of administrative duties for the state.

(f) Judges, temporary referees, receivers and jurors.

(g) All employees of the Idaho supreme court and district courts.

(h) All employees of the Idaho state bar.

(i) Assistant attorneys general attached to the office of the attorney general.

(j) Officers, members of the teaching staffs of state educational institutions, the professional staff of the Idaho department of education administered by the board of regents and the board of education, and the professional staffs of the Idaho department division of ~~vocational~~ professional-technical education and vocational rehabilitation administered by the state board for ~~vocational~~ professional-technical education. "Teaching staff" includes teachers, coaches, resident directors, librarians and those principally engaged in academic research. The word "officer" means presidents, vice presidents, deans,

directors, or employees in positions designated by the state board who receive an annual salary of not less than step "A" of the pay grade equivalent to three hundred fifty-five (355) Hay points in the state compensation schedule. A nonclassified employee who is designated as an "officer" on July 5, 1991, but does not meet the requirements of this subsection, may make a one (1) time irrevocable election to remain nonclassified. Such an election must be made not later than August 2, 1991. When such positions become vacant, these positions will be reviewed and designated as either classified or nonclassified in accordance with this subsection.

(k) Employees of the military division.

(l) Patients, inmates or students employed in a state institution.

(m) Persons employed in positions established under federal grants, which, by law, restrict employment eligibility to specific individuals or groups on the basis of nonmerit selection requirements. Such employees shall be termed "project exempt" and the tenure of their employment shall be limited to the length of the project grant, or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is of the shortest duration. No person hired on a project-exempt appointment shall be employed in any position allocated to the classified service.

(n) Temporary employees.

(o) All employees and officers of the following named commodity commissions, and all employees and officers of any commodity commission created hereafter: the Idaho potato commission, as provided in chapter 12, title 22, Idaho Code; the Idaho honey advertising commission, as provided in chapter 28, title 22, Idaho Code; the Idaho bean commission, as provided in chapter 29, title 22, Idaho Code; the Idaho prune commission, as provided in chapter 30, title 22, Idaho Code; the Idaho hop grower's commission, as provided in chapter 31, title 22, Idaho Code; the Idaho wheat commission, as provided in chapter 33, title 22, Idaho Code; the Idaho pea and lentil commission, as provided in chapter 35, title 22, Idaho Code; the Idaho apple commission, as provided in chapter 36, title 22, Idaho Code; the Idaho cherry commission, as provided in chapter 37, title 22, Idaho Code; the Idaho mint grower's commission, as provided in chapter 38, title 22, Idaho Code; the state board of sheep commissioners, as provided in chapter 1, title 25, Idaho Code; the state brand 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.

SECTION 28. That Section 72-517, Idaho Code, be, and the same is hereby amended to read as follows:

72-517. COOPERATION WITH OTHER AGENCIES. The commission shall have the authority to enter into cooperative agreements with the director of the department of labor, the administrator of the division of building safety, the director of the department of health and welfare, state board of education, state board of ~~vocational~~ professional-technical education, state nuclear energy commission, and with other state agencies and with their successors, and with federal and private agencies, and to cooperate with programs sponsored by all such agencies to facilitate the carrying out of the purposes of this law.

SECTION 29. 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~~ PROFESSIONAL-TECHNICAL 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~~ professional-technical 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 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 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.

SECTION 30. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

1. State Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues to determine the total state funds.

2. From the total state funds subtract the following amounts needed for state support of special programs provided by a school district:

- a. Pupil tuition-equivalency allowances as provided in section 33-1002B, Idaho Code;
- b. Transportation support program as provided in section 33-1006, Idaho Code;
- c. Feasibility studies allowance as provided in section 33-1007A, Idaho Code;
- d. The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintendent of public instruction;
- e. The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;
- f. Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;
- g. Salary based apportionment calculated as provided in sections 33-1004 through 33-1004F, Idaho Code;
- h. Unemployment insurance benefit payments according to the pro-

visions of section 72-1349A, Idaho Code;

i. For programs to provide basic curricula necessary to enable students to enter academic or ~~vocational~~ professional-technical postsecondary education programs, an allocation of \$300 per support unit for the 1994-95 school year only;

j. For provision of teacher supplies to facilitate classroom instruction, an allocation of \$200 per support unit for the 1994-95 school year only;

k. For expenditure as provided by the public school technology program, \$10,400,000 for the 1994-95 school year;

l. For additional school innovation pilot project grants based on recommendations of the Idaho school reform committee, \$2,000,000 for the 1994-95 school year; and

m. For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of \$300 per support unit;

n. Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the state educational support funds.

3. Local Districts' Contribution Calculation. Without including any allowance as a credit for prepaid taxes as provided by section 63-1607, Idaho Code, the local districts' contribution shall be four-tenths percent (.4%) during fiscal year 1994-95 and each year thereafter, of the total state adjusted market value for assessment purposes for the previous year with such value being determined by the provisions of section 63-315, Idaho Code, and four-tenths percent (.4%) during fiscal year 1994-95 and each year thereafter, of the cooperative electrical associations' property values that have been derived from the taxes paid in lieu of ad valorem taxes for the previous year as provided in section 63-3502, Idaho Code.

4. Educational Support Program Distribution Funds. Add the local districts' contribution, subsection 3. of this section, and the state educational support program funds, subsection 1. of this section, together to secure the total educational support program distribution funds.

5. Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

6. Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of kindergarten support units, computation of elementary support units, computation of secondary support units, computation of exceptional education support units, and computation of alternative school secondary support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Units Allowed
41 or more	40	1 or more as computed
31 - 40.99 ADA	-	1
26 - 30.99 ADA	-	.85
21 - 25.99 ADA	-	.75
16 - 20.99 ADA	-	.6
8 - 15.99 ADA	-	.5
1 - 7.99 ADA	-	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA		15
	.23...grades 4,5 & 6	
	.22...grades 1,2 & 3...1994-95	
	.21...grades 1,2 & 3...1995-96	
	.20...grades 1,2 & 3...1996-97 and each year thereafter.	
160 to 299.99 ADA	20	8.4
110 to 159.99 ADA	19	6.8
71.1 to 109.99 ADA	16	4.7
51.7 to 71.0 ADA	15	4.0
33.6 to 51.6 ADA	13	2.8
16.6 to 33.5 ADA	12	1.4
1.0 to 16.5 ADA	n/a	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more	18.5	47
400 - 749.99 ADA	16	28
300 - 399.99 ADA	14.5	22
200 - 299.99 ADA	13.5	17
100 - 199.99 ADA	12	9
99.99 or fewer	Units allowed as follows:	
	Grades 7-12	8
	Grades 9-12	6
	Grades 7- 9	1 per 14 ADA
	Grades 7- 8	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more	14.5	1 or more as computed
12 - 13.99	-	1
8 - 11.99	-	.75
4 - 7.99	-	.5
1 - 3.99	-	.25

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12.....	1 or more as computed

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The tables for exceptional education and alternative school secondary support units shall be applicable only for programs approved by the state department of education following rules established by the state board of education. Moneys generated from computation of support units for alternative schools shall be utilized for alternative school programs. School district administrative and facility costs may be included as part of the alternative school expenditures.

7. State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection 2. of this section, by the total state support units to secure the state distribution factor per support unit.

8. District Share of State Funds for Educational Support Program. Ascertain a district's share of state funds for the educational support program as follows:

a. District Contribution Calculation. Without including any allowance as a credit for prepaid taxes, as provided in section 63-1607, Idaho Code, the district contribution calculation shall be the rate determined under subsection 3. of this section.

b. District Support Units. The number of support units for each school district in the state shall be determined as follows:

(1) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school secondary students. Calculations in application of this subsection shall be carried out to the nearest tenth.

(2) Divide the combined totals of the average daily attendance of all preschool, handicapped, kindergarten, elementary, secondary and juvenile detention center students approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for this subsection shall be carried out to the nearest tenth when more than one (1) unit is allowed.

(3) The total number of support units of the district shall be the sum of the total support units for regular students,

subsection 8.b.(1) of this section, and the support units allowance for the approved exceptional child program, subsection 8.b.(2) of this section.

c. Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest tenth, by the state distribution factor per support unit and to this product add the approved amount of programs of the district provided in subsection 2. of this section to secure the district's total allowance for the educational support program.

d. District Share. To secure the district's share of state apportionment, subtract the amount of the local district contribution calculation, subsection 3. of this section, from the amount of the total district allowance, subsection 8.c. of this section.

e. Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of subsection 8.d. of this section.

SECTION 31. That Section 33-2110, Idaho Code, be, and the same is hereby amended to read as follows:

33-2110. TUITION. (1) All students of a community college shall pay tuition that shall be fixed annually by the board of trustees not later than the 1st day of August of each year. The tuition for full-time students taking normal academic courses provided by the college, who are residents of the district, shall be fixed at not less than three hundred fifty dollars (\$350) per annum, and may be increased by increments of not more than fifty dollars (\$50.00) per annum to a maximum tuition of nine hundred fifty dollars (\$950) per annum. For all other students taking such courses the tuition shall be, as nearly as is practicable, the annual costs of all elements of providing the courses of instruction, including interest on general obligation bonds, teaching, administration, maintenance, operation and depreciation of equipment and buildings, supplies and fuel, and other ordinary and necessary expenses of operation incurred in providing courses by the community college, provided that the tuition of students residing outside the district but within the county or counties wherein the district is located shall be fixed after taking into account moneys received by the community college district from any funds allocated to the community college from the educational funds of the state of Idaho, other than allocations for ~~vocational~~ professional-technical education; and provided that the tuition of students residing outside the district and the county but within the state of Idaho shall be fixed after taking into account moneys received from educational funds other than ~~vocational~~ professional-technical moneys, as referred to in this chapter, from the state of Idaho. Receipt of moneys, as hereinbefore provided in this section, shall be based upon the receipts from the sources referred to during the fiscal year preceding the fixing of the tuition. A student in a community college shall not be deemed a resident of the district or of the county or of the state of Idaho, unless that student is deemed a resident as defined by section 33-2110B, Idaho Code, for the district, county or state prior to the date of his first enrollment in the community college, and no student

who was not a resident of the district, county or state shall gain residence while attending and enrolled in the community college. The residence of a minor shall be deemed to be the residence of his parents or parent or guardian. Tuition shall be payable in advance, but the board may, in its discretion, permit tuition to be paid in instalments.

(2) The board of trustees shall also fix fees for laboratory and other special services provided by the community college and for special courses, including, but not limited to, night school, off-campus courses, summer school, ~~vocational~~ professional-technical courses, as otherwise provided in this chapter, and other special instruction provided by the community college and nothing in this chapter shall be deemed to control the amount of tuition for special courses or fees for special services, as herein provided, but the same shall be, as nearly as reasonable, sufficient to cover the cost of all elements of providing courses as above defined.

(3) In this chapter unless the context requires otherwise, the following definitions shall be uniformly applied. The application of these definitions shall be retroactive and prospective.

(a) "Fees" shall include all charges imposed by the governing body, to students, as a whole or individually, in excess of tuition. Student fees may be imposed for special courses, instruction, and service:

(i) "Special course or instruction fee" means those fees charged for any class or educational endeavor which shall have unique costs beyond a traditional college lecture class; for example, foreign language audio or visual instruction, specialized musical instruction, computer class, art class involving supplies or audiovisual equipment, ~~vocational~~ professional-technical instruction, laboratory class, remedial instruction, team teaching, satellite transmissions, outside instructor, professionally assisted instruction, etc.

(ii) "Special service fee" means those fees charged for activity, benefit, or assistance offered to students which is beyond traditional classroom instruction; for example, student government support, providing of student health staff or facilities, student union support, intramural and intercollegiate athletics, recreational opportunities, financial aid services, graduation expense, automobile parking, student yearbook/publication, insurance, registration, noncapital library user fee, etc.

Fees shall not be imposed for any capital improvements except as specifically authorized in chapter 21, title 33, Idaho Code.

(b) "Tuition" shall mean a sum charged students for cost of college instruction and shall include costs associated with maintenance and operation of physical plant, student services and institutional support.

SECTION 32. That Section 33-2401, Idaho Code, be, and the same is hereby amended to read as follows:

33-2401. DEFINITIONS. For the purposes of chapter 24, title 33, Idaho Code, the following words have the following meanings:

(1) "Accredited" means that a school has been recognized or approved as meeting the standards established by an accrediting agency recognized by the board or the United States department of education.

(2) "Agent" means any individual who solicits students for courses in Idaho.

(3) "Agent's permit" means a nontransferable written document issued to an agent by the board.

(4) "Board" means the state board of education.

(5) "Course of study" means either a single course or a set of related courses for which a student enrolls.

(6) "Degree" means any academic, vocational, professional-technical or honorary title or designation, mark, appellation, series of letters, numbers or words such as, but not limited to, "bachelor's," "master's," "doctorate," or "fellow," which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, vocational, professional-technical, educational or professional program of study beyond the secondary school level or for a recognized title conferred for meritorious recognition and an associate of arts or associate of science degree awarded by a community college or other institution which may be used for any purpose whatsoever.

The state of Idaho recognizes and confirms the authority of any board of directors, board of trustees or comparable authority of an accredited school to confer degrees consistent with the requirements specified by the accrediting agency of the school.

(7) "Person" means any individual or other legal entity conducting courses.

(8) "Principal" means any person conducting courses.

(9) "Proprietary school" referred to as "school" means any post-secondary or vocational or professional-technical educational school operated for a profit, or on a nonprofit basis, which maintains a place of business within the state of Idaho or solicits business within the state of Idaho offering degrees, career or job training programs and which is not specifically exempted by the provisions of this chapter.

(10) "Registrant" means a person or principal who has been issued a certificate authorizing the conduct of courses.

(11) "Student" means an Idaho resident enrolled in a proprietary school.

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

33-3002. PURPOSES OF IDAHO STATE UNIVERSITY. Idaho State University shall be a comprehensive institution of higher education giving instruction in undergraduate, professional and graduate education, as approved by the board of trustees.

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

The board of trustees may establish ~~vocational~~ professional-

technical and other courses or programs, as it may deem necessary, and such courses or programs may be given or conducted on or off campus, or in night schools, summer schools, or by extension courses.

SECTION 34. That Section 33-3101, Idaho Code, be, and the same is hereby amended to read as follows:

33-3101. ESTABLISHMENT OF SCHOOL. An institute of higher education for the state of Idaho is hereby established in the city of Lewiston, in the county of Nez Perce, to be called the Lewis-Clark State College, heretofore called the Lewis-Clark Normal School, the purposes of which shall be the offering and the giving of instruction in four (4) year college courses in science, arts and literature, and such courses or programs as are usually included in liberal arts colleges leading to the granting of the degree of Bachelor, upon completion of such courses or programs as have been approved by the state board of education.

The board of trustees may also establish educational, ~~vocational~~, professional-technical and other courses or programs of less than four (4) years, as it may deem necessary, and such courses or programs may be given or conducted on or off campus, or in night school, summer schools, or by extension courses.

SECTION 35. That Section 33-4001, Idaho Code, be, and the same is hereby amended to read as follows:

33-4001. BOISE STATE UNIVERSITY ESTABLISHED -- STANDARDS -- ~~VOCATIONAL~~ PROFESSIONAL-TECHNICAL PROGRAMS. The college now known as Boise state college and previously operated and conducted by Boise community college district in Ada County, Idaho, known as Boise ~~junior~~ college, shall be established in the city of Boise, Idaho, as an institution of higher education of the state of Idaho, for the purpose of giving instruction in college courses in sciences, arts and literature, professional, technical and other courses of higher education, such courses being those that are usually included in colleges and universities leading to the granting of appropriate collegiate degrees, said college to be known as Boise State University. The standards of the courses and departments maintained in said university shall be at least equal to, or on a parity with those maintained in other similar colleges and universities in Idaho and other states. All programs in the ~~vocational~~ professional-technical departments, including terminal programs now established and maintained, may be continued and such additional ~~vocational~~ professional-technical and terminal programs may be added as the needs of the students attending such ~~college~~ university taking ~~vocational~~ professional-technical and terminal programs shall warrant, and the appropriate certificate for completion thereof shall be granted. The courses offered and degrees granted at said university shall be determined by the board of trustees.

SECTION 36. That Section 33-4302, Idaho Code, be, and the same is hereby amended to read as follows:

33-4302. SCHOLARSHIPS -- STATE AID. Children of any Idaho citizen who is a resident of the state of Idaho on or after the effective date of this act and who has been determined by the federal government to be a prisoner of war or missing in action or died of injuries or wounds sustained in action in southeast Asia, including Korea, or who shall become so hereafter, in any area of armed conflict in which the United States is a party, shall be admitted to attend any public institution of higher education or public ~~vocational~~ professional-technical school within the state of Idaho without the necessity of paying tuition and fees therefor; that such student shall be provided with books, equipment and supplies necessary for pursuit of such program of enrollment not to exceed two hundred dollars (\$200) per quarter, semester, intensified semester, or like educational period; that such student shall be furnished on-campus housing and subsistence not to exceed two hundred dollars (\$200) for each month he is enrolled under this program; provided, however, that such educational benefits shall not exceed a total of thirty-six (36) months or four (4) nine (9) month periods; provided further, that such child shall meet such other educational qualifications as such institution of higher education or ~~vocational~~ professional-technical school has established for other prospective students of this state.

Affected institutions shall in their preparation of future budgets include therein costs resultant from such tuition, fee, book, equipment, supply, housing and subsistence loss for reimbursement thereof from appropriations of state funds.

Applicants for the scholarship program herein prescribed shall provide institutional administrative personnel with documentation of their rights under this act.

SECTION 37. That Section 33-4302A, Idaho Code, be, and the same is hereby amended to read as follows:

33-4302A. SCHOLARSHIPS -- STATE AID. Any dependent of a full-time peace officer or firefighter employed in Idaho, which officer or firefighter is a resident of the state of Idaho and which officer or firefighter is killed or disabled in the line of duty shall be admitted to attend any public institution of higher education or public ~~vocational~~ professional-technical school within the state of Idaho without the necessity of paying tuition and fees in an amount not to exceed eight hundred dollars (\$800) and shall be provided with books, equipment and supplies necessary for pursuit of their program of enrollment not to exceed three hundred dollars (\$300), per quarter, semester, intensified semester, or like education period. The dependent shall be required to meet the educational qualifications as such institution of higher education or ~~vocational~~ professional-technical school as established for other prospective students of this state.

Affected institutions shall, in their preparation of future budgets, include therein costs resulting from such tuition, fees, books, equipment and supplies for reimbursement thereof from appropriation of state funds.

For the purposes of this section, a peace officer or firefighter, employed in Idaho, is considered disabled if he or she is unable to perform with reasonable continuity the material duties of any gainful

occupation for which he or she is reasonably fitted by education, training and experience.

SECTION 38. That Section 33-4403, Idaho Code, be, and the same is hereby amended to read as follows:

33-4403. DEFINITIONS. As used in this chapter:

(1) "Accredited institution of higher education" means any public or private university, college, or community college in Idaho accredited by the northwest association of schools and colleges, or any public ~~vocational~~ professional-technical school operated by the state of Idaho or any political subdivision thereof; provided, that no institution of higher education shall be eligible to participate in the program unless it agrees to and complies with program rules and regulations adopted by the board pursuant to chapter 52, title 67, Idaho Code; provided, further, that private accredited institutions of higher education which are controlled by sectarian organizations, and students attending such institutions, may participate only in the educational need, off-campus work experience portion of this program and such off-campus employment may not be located at, or be performed on behalf of, a sectarian or religious establishment.

(2) "Board" means the state board of education.

(3) "Program" means the Idaho work study program established pursuant to this chapter.

(4) "Resident student" means an individual as defined in section 33-3717, Idaho Code.

(5) "Student" means an individual currently at an Idaho school enrolled in a ~~post-secondary~~ postsecondary degree program, or a state supported ~~vocational~~ professional-technical program.

(6) "Student with educational need" means a post high school student in good standing at an accredited institution of higher learning who is desirous of obtaining work experience related to the student's course of academic study, in either on-campus or approved off-campus employment, and who meets the institutional requirements for determining educational need; provided, however, a student whose academic course of study is sectarian in nature or who is pursuing an educational program leading to a baccalaureate degree in theology or divinity may not participate in this program.

(7) "Student with financial need" means a post high school student in good standing at an accredited institution of higher learning who demonstrates to the institution the financial inability, either through the student's parents, family and/or personally, to meet the institutionally defined cost of education, and further demonstrates the ability and willingness to work in a student work study program, according to the stated needs of the institution.

SECTION 39. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "Active member" means any employee who is not establishing

the right to receive benefits through his or her employer's participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled to any benefit under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes or federal statutes other than military service or social security for that same service.

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

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

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

(5A) "Alternate payee" means a spouse or former spouse of a member who is recognized by an approved domestic retirement order as having a right to all or a portion of the accrued benefits in the retirement system with respect to such member.

(5B) "Approved domestic retirement order" means a domestic retirement order which creates or recognizes the existence of an alternate payee's right or assigns to an alternate payee the right to all or a portion of the accrued benefits of a member under the retirement system, which directs the system to establish a segregated account or disburse benefits to an alternate payee, and which the executive director of the retirement system has determined meets the requirements of sections 59-1319 and 59-1320, Idaho Code.

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

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

(i) The highest average salary; and

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

A. Military service;

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

C. Worker's compensation income benefits.

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

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

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

(e) To assure equitable treatment for all members, salary incre-

ments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary and base period.

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

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

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

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

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

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

(12) "Disabled" means:

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

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

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

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

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

sixty (360) over the total number of months of prior service and membership service.

(12B) "Domestic retirement order" means any judgment, decree, or order, including approval of a property settlement agreement which relates to the provision of marital property rights to a spouse or former spouse of a member, and is made pursuant to a domestic relations law, including the community property law of the state of Idaho or of another state.

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

(14) (A) "Employee" means:

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

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

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

(B) "Employee" does not include employment as:

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

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

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

(d) An inmate of a state institution, whether or not receiving compensation for services performed for the institution; or

(e) A student enrolled in an undergraduate, graduate, or ~~vocational~~ professional-technical program at and employed by a state college, university, community college or ~~vocational~~ professional-technical center when such employment is predicated on student status; or

(f) A person making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that a person who receives separate remuneration for work currently performed for an employer and the United States government may elect to be a member of the retirement system in accordance with rules of the board; or

(g) A person occupying a position that does not exceed eight (8) consecutive months in a calendar year with a city or county when the city or county has certified, in writing to the system, the position is (i) seasonal or casual; and (ii) affected by weather and the growing season, including parks and golf course positions.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsi-

bilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this chapter.

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

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

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

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

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

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

(20A) "Lifetime annuity" means periodic monthly payments of income by the retirement system to an alternate payee.

(20B) "Lump sum distribution" means a payment by the retirement system of the entire balance in the alternate payee's segregated account, together with regular interest credited thereon.

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

(22) "Membership service" means military service which occurs after the commencement of contributions payable under sections 59-1331 through 59-1334, Idaho Code, and service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, which, except for benefit calculations described in sections 59-1342 and 59-1353, Idaho Code, includes service transferred to a segregated account under an approved domestic retirement order.

(23) "Military service" means active duty service in the armed forces of the United States including the national guard and reserves, under the provisions of title 10, title 32, and title 37, United States code. Provided, however, for the purposes of this chapter, military service SHALL NOT include:

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

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

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

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

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

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

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

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

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

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

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

(31) (A) "Salary" means:

(a) The total salary or wages paid to a person who meets the definition of employee by an employer for personal services performed and reported by the employer for income tax purposes, including the cash value of all remuneration in any medium other than cash.

(b) The total amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(B) Salary in excess of the compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded for any person who becomes a member of the system on or after July 1, 1996. The system had no limitations on compensation in effect on July 1, 1993. The compensation limitations set forth in section 401(1)(17) of the Internal Revenue Code shall not apply for an "eligible employee." For purposes of this subsection, "eligible employee" is an individual who was a member of the system before July 1, 1996.

(C) "Salary" does not include:

(a) Contributions by employers to employee held medical savings accounts, as those accounts are defined in section 63-3022K, Idaho Code.

(b) Lump sum payments inconsistent with usual compensation patterns made by the employer to the employee only upon termination from service including, but not limited to, vacation payoffs, sick leave payoffs, early retirement incentive payments and bonuses.

(31A) "Segregated account" means the account established by the retirement system for the alternate payee of a member who is not a

retired member. It shall include the months of credited service and accumulated contributions transferred from the member's account.

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

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. Service of fifteen (15) days or more during any calendar month shall be credited as one (1) month of service. Service of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

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

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

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

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

SECTION 40. That Section 67-6902, Idaho Code, be, and the same is hereby amended to read as follows:

67-6902. DEFINITIONS. As used in this chapter:

(1) "Public buildings" means the state capitol, all county courthouses, and all city halls and buildings used primarily as governmental offices of the state or any county or city. It does not include public schools or buildings or institutions of higher education or ~~vocational~~ professional-technical training, buildings of the department of health and welfare, or facilities of the state board of correction.

(2) "Food service facilities" includes restaurants, cafeterias, snack bars, and goods and services customarily offered in connection with any of the foregoing, and also includes vending machines dispensing foods when operated independently or in conjunction with such facilities.

(3) "Handicapped" means:

(a) A person who has a physical or mental impairment which substantially limits one (1) or more major life activities (e.g. communication, ambulation, self-care, socialization, education, vocational training, transportation or employment);

(b) A person who has a record of such an impairment and the impairment is expected to continue indefinitely;

(c) A person who is regarded or treated by others as having such an impairment;

(d) Persons including, but not limited to, persons who are blind, deaf, epileptic, autistic, mentally retarded or mentally ill or who have orthopedic disorders or cerebral palsy.

(4) "Nonprofit organization representing the handicapped" means tax exempt organizations as defined under section 501(c)(3) of the internal revenue code and includes the Idaho commission for the blind and visually impaired.

SECTION 41. That Section 72-1347B, Idaho Code, be, and the same is hereby amended to read as follows:

72-1347B. WORKFORCE DEVELOPMENT TRAINING FUND. (1) There is established in the state treasury a special trust fund, separate and apart from all other public funds of this state, to be known as the workforce development training fund, hereinafter "training fund." Except as provided herein, all proceeds from the training tax defined in subsection (4) of this section shall be paid into the training fund. The state treasurer shall be the custodian of the training fund and shall invest said moneys in accordance with law. Any interest earned on the moneys in the training fund shall be deposited in the training fund. Moneys in the training fund shall be disbursed in accordance with the directions of the director.

(2) All moneys in the training fund are perpetually appropriated to the director for expenditure in accordance with the provisions of this section. The purpose of the training fund is to provide or expand training and retraining opportunities in an expeditious manner that would not otherwise exist for Idaho's workforce. The training fund is intended to supplement, but not to supplant or compete with, money available through existing training programs. The moneys in the training fund shall be used for the following purposes:

(a) To provide training for skills necessary for specific economic opportunities and industrial expansion initiatives;

(b) To provide training to upgrade the skills of currently employed workers at risk of being permanently laid off;

(c) For refunds of training taxes erroneously collected and deposited in the workforce training fund;

(d) For all administrative expenses incurred by the department associated with the collection of the training tax and any other administrative expenses associated with the training fund.

(3) Expenditures from the training fund for purposes authorized in paragraphs (a) and (b) of subsection (2) of this section shall be approved by the director and the director of the department of commerce based on procedures, criteria and performance measures established by the council appointed pursuant to section 72-1336, Idaho Code. The activities funded by the training fund will be coordinated with similar activities funded by the state division of ~~vocational~~ professional-technical education. Expenditures from the training fund for purposes authorized in paragraphs (c) and (d) of subsection (2) of this section shall be approved by the director. The director shall pay all approved expenditures as long as the training fund has a positive balance. The council shall report annually to the governor and the joint finance-appropriations committee the commitments and expenditures made from the training fund in the preceding fiscal year and the results of the activities funded by the training fund.

(4) A training tax is hereby imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code, with the exception of deficit employers who have been assigned a taxable wage rate from rate class six pursuant to section 72-1350, Idaho Code. The training tax rate shall be equal to three percent (3%) of the taxable wage rate then in effect for each eligible, standard-rated and deficit employer. The training tax shall be due and payable at the

same time and in the same manner as contributions. This subsection is repealed effective January 1, 2002, unless, prior to that date, the Idaho legislature approves the continuation of this subsection by repeal of this sunset clause.

(5) The provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the training tax, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section, the director is granted all rights, authority, and prerogatives granted under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions, reserve taxes and the training tax shall first be applied to any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to delinquent contributions to the employment security fund, section 72-1346, Idaho Code, delinquent reserve taxes to the reserve fund, section 72-1347A, Idaho Code, and delinquent training taxes to the training fund. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this subsection shall be paid out of that same fund. Training taxes paid pursuant to this section shall not be credited to the employer's experience rating account and may not be deducted by any employer from the wages of individuals in its employ. All training taxes shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the training fund established in subsection (1) of this section.

(6) Administrative costs related to the training fund shall be paid from the training fund in accordance with subsection (3) of this section.

SECTION 42. That Section 72-501A, Idaho Code, be, and the same is hereby amended to read as follows:

72-501A. REHABILITATION DIVISION -- BUDGET AND EXPENSE -- COMPOSITION AND IMPLEMENTATION. (1) In order to assist in reducing the period of temporary disability resulting from an injury and to aid in restoring the injured employee to gainful employment with the least possible permanent physical impairment, the commission shall establish within the commission a rehabilitation division and adopt a program concerning itself with both physical and vocational rehabilitation, the latter of which shall include job placement.

(2) The commission is authorized to budget and expend for such rehabilitation program such funds as may be paid into the industrial administration fund or rehabilitation account thereof by a special premium tax provided by law for this purpose.

(3) The composition of the rehabilitation division and implementation of the rehabilitation program shall be in the discretion of the commission with the counsel, advice, cooperation and expertise of representatives of industry, labor, sureties and the legal and medical

professions as well as institutions, hospitals and clinics having physical rehabilitation facilities and with the assistance of the state board of ~~vocational--rehabilitation~~ for professional-technical education, when such board is carrying out the duties of chapter 23, title 33, Idaho Code.

Approved March 24, 1999.

CHAPTER 330
(S.B. No. 1044, As Amended)

AN ACT

RELATING TO DOMESTIC VIOLENCE; AMENDING SECTION 39-6302, IDAHO CODE, TO PROVIDE THAT AN ADDITIONAL PURPOSE OF THE DOMESTIC VIOLENCE LAW IS TO AFFORD FULL FAITH AND CREDIT TO PROTECTION ORDERS ISSUED BY COURTS IN ALL STATES, THE DISTRICT OF COLUMBIA, UNITED STATES TERRITORIES AND INDIAN TRIBES WITHIN THE UNITED STATES; AMENDING SECTION 39-6303, IDAHO CODE, TO DEFINE "PROTECTION ORDER"; AMENDING CHAPTER 63, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-6306A, IDAHO CODE, TO PROVIDE THAT CERTAIN OUT-OF-STATE PROTECTION ORDERS ARE PRESUMED VALID, TO PROVIDE FOR THEIR REGISTRATION, TO PROVIDE THAT REGISTRATION IS NOT REQUIRED FOR ENFORCEMENT AND TO AFFORD FULL FAITH AND CREDIT TO CERTAIN OUT-OF-STATE PROTECTION ORDERS; AMENDING SECTION 39-6309, IDAHO CODE, TO PROVIDE THAT PEACE OFFICERS MAY BE ORDERED TO ASSIST IN THE ENFORCEMENT OF OUT-OF-STATE PROTECTION ORDERS; AMENDING SECTION 39-6310, IDAHO CODE, TO PROVIDE THAT AN OUT-OF-STATE PROTECTION ORDER REGISTERED WITH A COURT IN IDAHO NEED NOT BE SERVED ON THE RESPONDENT; AMENDING SECTION 39-6311, IDAHO CODE, TO ALLOW A REGISTERED OUT-OF-STATE PROTECTION ORDER TO BE PLACED IN THE IDAHO LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM; AMENDING SECTION 39-6312, IDAHO CODE, TO IMPOSE THE SAME PENALTIES FOR VIOLATING OUT-OF-STATE PROTECTION ORDERS AS FOR VIOLATING IN-STATE PROTECTION ORDERS AND TO PRESUME NOTICE UPON PROOF OF SERVICE; AMENDING SECTION 39-6314, IDAHO CODE, TO GIVE IMMUNITY TO PEACE OFFICERS WHO ENFORCE OUT-OF-STATE PROTECTION ORDERS WHEN THEY ACT IN GOOD FAITH AND WITHOUT MALICE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-6302, Idaho Code, be, and the same is hereby amended to read as follows:

39-6302. STATEMENT OF PURPOSE. For purposes of this chapter, the legislature adopts by reference the declaration of policy in section 39-5201, Idaho Code. Additionally, the legislature finds that a significant number of homicides, aggravated assaults, and assaults and batteries occur within the home between adult members of families. Furthermore, research shows that domestic violence is a crime which can be deterred, prevented or reduced by legal intervention. Domestic violence can also be deterred, prevented or reduced by vigorous prose-

cutation by law enforcement agencies and prosecutors and by appropriate attention and concern by the courts whenever reasonable cause exists for arrest and prosecution.

The purpose of this act is to address domestic violence as a serious crime against society and to assure the victims of domestic violence the protection from abuse which the law and those who enforce the law can provide.

It is the intent of the legislature to expand the ability of the courts to assist victims by providing a legal means for victims of domestic violence to seek protection orders to prevent such further incidents of abuse. It is the intent of the legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior in the home is criminal behavior and will not be tolerated. It is the intent of the legislature to presume the validity of protection orders issued by courts in all states, the District of Columbia, United States territories and all federally recognized Indian tribes within the United States, and to afford full faith and credit to those orders. The provisions of this chapter are to be construed liberally to promote these purposes.

SECTION 2. That Section 39-6303, Idaho Code, be, and the same is hereby amended to read as follows:

39-6303. DEFINITIONS. (1) "Domestic violence" means the physical injury, sexual abuse or forced imprisonment or threat thereof of a family or household member.

(2) "Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who reside or have resided together, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

(3) "Family dwelling" is any premises in which the petitioner resides.

(4) "Judicial day" means any day upon which court business may be transacted as provided in sections 1-1606 and 1-1607, Idaho Code.

(5) "Protection order" means any order issued for the purpose of preventing violent or threatening acts or acts of harassment against, or contact or communication with, or physical proximity to, another person, where the order was issued;

(a) Pursuant to this chapter;

(b) In another jurisdiction pursuant to a provision similar to section 39-6306, Idaho Code; or

(c) In any criminal or civil action, as a temporary or final order (other than a support or child custody order), and where the order was issued in a response to a criminal complaint, petition or motion filed by or on behalf of a person seeking protection, and issued after giving notice and an opportunity to respond to the person being restrained.

SECTION 3. That Chapter 63, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-6306A, Idaho Code, and to read as follows:

39-6306A. OUT-OF-STATE ORDERS -- PRESUMED VALID -- REGISTRATION -- FULL FAITH AND CREDIT. (1) An out-of-state protection order is presumed valid if the issuing court had jurisdiction over the parties and matter under the law of the state, district, territory or tribe and the order appears authentic on its face.

(2) A valid out-of-state protection order may be registered with a court of this state in order to be entered in the Idaho law enforcement telecommunications system pursuant to section 39-6311, Idaho Code. No fees are required to register an out-of-state protection order.

(3) It is not necessary that the out-of-state protection order be registered pursuant to section 39-6311, Idaho Code, in order to be enforced.

(4) A valid out-of-state protection order shall be afforded full faith and credit by the courts of this state and shall be enforced as if issued in this state.

SECTION 4. That Section 39-6309, Idaho Code, be, and the same is hereby amended to read as follows:

39-6309. ISSUANCE OF ORDER -- ASSISTANCE OF PEACE OFFICER -- DESIGNATION OF APPROPRIATE LAW ENFORCEMENT AGENCY. When an order is issued or afforded full faith and credit under this chapter upon request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution of the protection order. A certified copy of the order shall be prepared by the clerk for transmittal to the appropriate law enforcement agency as specified in section 39-6311, Idaho Code. Orders issued or afforded full faith and credit under this chapter shall include a ~~designation--fo~~ an instruction to the appropriate law enforcement agency to execute, serve, or enforce the order.

SECTION 5. That Section 39-6310, Idaho Code, be, and the same is hereby amended to read as follows:

39-6310. ORDER AND SERVICE. (1) An order issued under this chapter along with a copy of the petition for a protection order, if the respondent has not previously received the petition, shall be personally served upon the respondent, except as provided in subsections (6), and (7) and (8) of this section.

(2) A peace officer of the jurisdiction in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party at the petitioner's own expense.

(3) If service by a peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter and a copy of the petition for a protection order, if the respondent has not previously received the petition, forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the peace officer cannot complete service upon the respondent within ten (10) days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court and receives a copy of the order, the necessity for further service is waived and proof of service of that order is not necessary.

(7) If a party has appeared in person before the court and has waived personal service, the clerk of the court shall complete service of any notice of hearing for orders or modifications by certified mail to the party's address as shown on the court petition which resulted in the issuance of the order or modification. Parties shall at all times keep the court informed of their current mailing address.

(8) If an out-of-state protection order is registered with the court under section 39-6306A, Idaho Code, the necessity for further service is waived and proof of service of that order is not necessary.

SECTION 6. That Section 39-6311, Idaho Code, be, and the same is hereby amended to read as follows:

39-6311. ORDER -- TRANSMITTAL TO LAW ENFORCEMENT AGENCY -- RECORD IN IDAHO LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM -- ENFORCEABILITY.

(1) The orders issued under sections 39-6306 and 39-6308, Idaho Code, or out-of-state orders afforded full faith and credit under section 39-6306A, Idaho Code, shall be in a form approved by the supreme court of the state of Idaho.

(2) (a) A copy of a protection order granted or afforded full faith and credit under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

(b) Upon receipt of the order, the law enforcement agency shall forthwith enter the order and its expiration date into the Idaho law enforcement telecommunications system available in this state used by law enforcement agencies to list outstanding warrants. Notification of service as required in section 39-6310, Idaho Code, shall also be entered into the Idaho law enforcement telecommunications system upon receipt. Entry into the Idaho law enforcement telecommunications system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state. Renewals of the order shall be recorded in the same manner as original orders. The information entered shall specifically state that the protection order is civil in nature. If the appropriate law enforcement agency determines that the service information sheet is incomplete or cannot be entered into the Idaho law enforcement telecommunications system upon receipt, the service information sheet shall be returned to the clerk of the court. The clerk of the court shall then notify the petitioner of the error or omission.

(3) Law enforcement agencies shall establish procedures reasonably adequate to assure that an officer approaching or actually at the

scene of an incident of domestic violence may be informed of the existence and terms of such protection order.

(4) A protection order shall remain in effect for the term set by the court or until terminated by the court. A protection order may, upon motion and upon good cause shown, be renewed for additional terms not to exceed one (1) year each if the requirements of this chapter are met. The motion to renew an order may be granted without a hearing, if not timely objected to by the party against whom the order was entered. If the petitioner voluntarily and without duress consents to the waiver of any portion of the protection order vis-a-vis the respondent pursuant to section 39-6313, Idaho Code, the order may be modified by the court.

SECTION 7. That Section 39-6312, Idaho Code, be, and the same is hereby amended to read as follows:

39-6312. VIOLATION OF ORDER -- PENALTIES. (1) Whenever a protection order is granted ~~under this chapter~~ and the respondent or person to be restrained had notice of the order, a violation of the provisions of the order or of a provision excluding the person from a residence shall be a misdemeanor punishable by not to exceed one (1) year in jail and a fine not to exceed five thousand dollars (\$5,000), ten dollars (\$10.00) of which shall be deposited to the credit of the domestic violence project account created in section 39-5212, Idaho Code.

(2) 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 an order, ~~issued under this chapter~~, if the person restrained had notice of the order.

(3) The person against whom a protection order has been issued by an out-of-state court is presumed to have notice of the order if the victim presents to the officer proof of service of the order.

SECTION 8. That Section 39-6314, Idaho Code, be, and the same is hereby amended to read as follows:

39-6314. PEACE OFFICERS -- IMMUNITY. No peace officer may be held criminally or civilly liable for actions or omissions in the performance of the duties of his office under this chapter, including the enforcement of out-of-state protection orders, if the peace officer acts in good faith and without malice.

SECTION 9. 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, 1999.

CHAPTER 331
(S.B. No. 1078)

AN ACT

RELATING TO TRUST PROTECTORS; AMENDING CHAPTER 7, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW PART 5, CHAPTER 7, TITLE 15, IDAHO CODE, TO ESTABLISH THE TERMS AND CONDITIONS UNDER WHICH, AND SUBJECT TO WHICH, A TRUST PROTECTOR MAY BE APPOINTED.

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

SECTION 1. That Chapter 7, Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 5, Chapter 7, Title 15, Idaho Code, and to read as follows:

PART 5. TRUST PROTECTOR

15-7-501. TRUST PROTECTOR. (1) Definition of terms:

(a) "Excluded fiduciary" means any fiduciary excluded from exercising certain powers under the instrument, which powers may be exercised by the grantor or a trust advisor or a trust protector.

(b) "Fiduciary" means a trustee under any testamentary or other trust, an executor, administrator, or personal representative of a decedent's estate, or any other party, including a trust advisor or a trust protector, who is acting in a fiduciary capacity for any person, trust or estate.

(c) "Instrument" means any revocable or irrevocable trust document whether created inter vivos or testamentary.

(d) "Trust advisor" means the grantor of an instrument, or other fiduciaries, in which any power, including the power and authority to direct the acquisition, disposition, or retention of any investment, or the power to authorize any act that an excluded fiduciary may propose, is reserved to the exclusion of another fiduciary also acting under the instrument. "Trust advisor" also includes any party accepting the delegation of a fiduciary's power to direct the acquisition, disposition or retention of any investment.

(e) "Trust protector" means any disinterested third party whose appointment is provided for in the trust instrument.

(2) Liability limits of excluded fiduciary. An excluded fiduciary is not liable, either individually or as a fiduciary, for either of the following:

(a) Any loss that results from compliance with a direction of the trust advisor;

(b) Any loss that results from a failure to take any action proposed by an excluded fiduciary that requires a prior authorization of the trust advisor if that excluded fiduciary timely sought but failed to obtain that authorization.

Any excluded fiduciary is also relieved from any obligation to perform investment reviews and make recommendations with respect to any investments to the extent the trust advisor had authority to direct

the acquisition, disposition or retention of any such investment.

(3) Death of grantor. An excluded fiduciary may continue to follow the direction of the trust advisor upon the incapacity or death of the grantor if the instrument so allows.

(4) When trust advisor considered as fiduciary. If one (1) or more trust advisors are given authority by the terms of a governing instrument to direct, consent to, or disapprove a fiduciary's investment decisions, or proposed investment decisions, such trust advisors shall be considered to be fiduciaries when exercising such authority unless the governing instrument provides otherwise.

(5) Excluded fiduciary's liability for loss if trust protector appointed. If an instrument appoints a trust protector, the excluded fiduciary is not liable for any loss resulting from any action taken upon such trust protector's direction.

(6) Powers and discretions of trust protector. The powers and discretions of a trust protector shall be as provided in the governing instrument and may, in the best interests of the trust, be exercised or not exercised in the sole and absolute discretion of the trust protector and shall be binding on all other persons. Such powers and discretion may include the following:

(a) To modify or amend the trust instrument to achieve favorable tax status or because of changes in the Internal Revenue Code, state law, or the rulings and regulations thereunder;

(b) To increase or decrease the interests of any beneficiaries to the trust; and

(c) To modify the terms of any power of appointment granted by the trust. However, a modification or amendment may not grant a beneficial interest to any individual or class of individuals not specifically provided for under the trust instrument.

(7) Submission to court jurisdiction -- Effect on trust advisor or trust protector. By accepting an appointment to serve as a trust advisor or trust protector of a trust that is subject to the laws of this state, the trust advisor or the trust protector submits to the jurisdiction of the courts of Idaho even if investment advisory agreements or other related agreements provide otherwise, and the trust advisor or trust protector may be made a party to any action or proceeding if issues relate to a decision or action of the trust advisor or trust protector.

Approved March 24, 1999.

CHAPTER 332

(S.B. No. 1139, As Amended, As Amended)

AN ACT

RELATING TO HIGHWAY DISTRICTS; AMENDING SECTION 40-1301, IDAHO CODE, TO DELETE REFERENCE TO GOOD ROAD DISTRICTS; AMENDING SECTION 40-1303, IDAHO CODE, TO PROVIDE FOR THE FIRST HIGHWAY COMMISSIONERS OF A HIGHWAY DISTRICT TO BE APPOINTED BY THE GOVERNOR AND TO PROVIDE DUTIES OF THE GOVERNOR IN MAKING APPOINTMENTS WHERE THERE HAD BEEN A HIGHWAY DISTRICT IN EXISTENCE WITHIN THE BOUNDARIES OF

THE NEW DISTRICT; AMENDING SECTION 40-1304, IDAHO CODE, TO PROVIDE FOR DIVIDING HIGHWAY DISTRICTS INTO SUBDISTRICTS BY THE COUNTY COMMISSIONERS, TO PROVIDE THAT SUBDISTRICTS MAY BE REVISED OR MODIFIED BY THE HIGHWAY DISTRICT COMMISSIONERS, TO PROVIDE CIRCUMSTANCES WHEN THE CHAIRMAN OF A CERTAIN BOARD OF COUNTY COMMISSIONERS MAY BECOME THE MEMBER OF A HIGHWAY DISTRICT BOARD WHEN THERE IS A VACANCY AND TO PROVIDE PROCEDURES WHEN TWO OR MORE VACANCIES ON A HIGHWAY DISTRICT BOARD EXIST; AMENDING SECTION 40-1306, IDAHO CODE, TO REVISE PROCEDURES FOR HIGHWAY COMMISSIONERS TO MEET AND ORGANIZE AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 13, TITLE 40, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 40-1306A, 40-1306B AND 40-1306C, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE THAT HIGHWAY DISTRICT MEETINGS SHALL BE OPEN TO THE PUBLIC, TO PROVIDE NOTICE OF MEETINGS, TO PROVIDE PROCEDURES, TO PROVIDE FOR EXECUTIVE SESSIONS AND TO PROVIDE THAT HIGHWAY DISTRICT RECORDS ARE OPEN TO THE PUBLIC EXCEPT AS PROVIDED BY LAW; AMENDING SECTION 40-1308, IDAHO CODE, TO PROVIDE THAT EVERY HIGHWAY DISTRICT HAS THE POWER TO LEVY AND COLLECT TAXES AS NECESSARY TO PAY FOR A COMPREHENSIVE INSURANCE PLAN, TO DEFRAY ALL EXPENSES OF PROSECUTING AND DEFENDING ACTIONS AND TO PAY ANY JUDGMENTS AND LIABILITIES INCURRED AGAINST IT; AMENDING SECTION 40-1309, IDAHO CODE, TO REVISE PROCEDURES FOR DISPOSAL OF REAL AND PERSONAL PROPERTY; AMENDING SECTION 40-1310, IDAHO CODE, TO PROVIDE JURISDICTION OVER PUBLIC RIGHTS-OF-WAY WITHIN A HIGHWAY DISTRICT'S HIGHWAY SYSTEM, TO DELETE THE RESIDENCY REQUIREMENT FOR THE PURCHASE OF RIGHTS-OF-WAY, TO PROVIDE FOR CREATION OF SUBDISTRICTS AND TO PROVIDE FOR RESOLUTIONS; AMENDING SECTION 40-1311, IDAHO CODE, TO REVISE THE JURISDICTION OF HIGHWAY DISTRICT COMMISSIONERS; REPEALING SECTION 40-1318, IDAHO CODE; AMENDING SECTION 40-1319, IDAHO CODE, TO DELETE A MAXIMUM TERM OF OFFICE FOR A DIRECTOR OF HIGHWAYS AND TO DELETE THE REQUIREMENT FOR AN OATH OF OFFICE; AMENDING SECTION 40-1320, IDAHO CODE, TO PROVIDE FOR A DEPUTY DIRECTOR OF HIGHWAYS APPOINTED BY THE DIRECTOR, SUBJECT TO CONFIRMATION AND APPROVAL OF THE HIGHWAY COMMISSIONERS; REPEALING SECTION 40-1321, IDAHO CODE; AMENDING SECTION 40-1323, IDAHO CODE, TO PROVIDE THAT THE CITY COUNCIL OF AN INCORPORATED CITY WITH A CITY HIGHWAY SYSTEM SHALL HAVE THE POWERS AND DUTIES OF HIGHWAY DISTRICT COMMISSIONERS; AMENDING SECTION 40-1333, IDAHO CODE, TO PROVIDE THAT CITIES WITH CITY HIGHWAY SYSTEMS SHALL BE RESPONSIBLE FOR THE CONSTRUCTION, RECONSTRUCTION AND MAINTENANCE OF HIGHWAYS IN THEIR RESPECTIVE CITY SYSTEMS WITH EXCEPTIONS; AND REPEALING SECTION 40-1334, IDAHO CODE.

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

SECTION 1. That Section 40-1301, Idaho Code, be, and the same is hereby amended to read as follows:

40-1301. DISTRICTS AS NOW ORGANIZED VALIDATED. ~~---GOOD-ROAD-DISTRICTS-REDESIGNATED.~~ (1) All highway districts as now organized and constituted are hereby validated and shall continue as public corporations.

~~(2) All good road districts as now organized and constituted are hereby redesignated as highway districts, and shall conform to all procedures, requirements, powers and duties as shall apply to highway districts; the same as if they had been originally organized as highway districts. Good road district commissioners shall continue in office as highway district commissioners until the expiration of their term of office, following which there shall be an election of highway district commissioners for a term of four (4) years.~~

SECTION 2. That Section 40-1303, Idaho Code, be, and the same is hereby amended to read as follows:

40-1303. HIGHWAY COMMISSIONERS -- APPOINTMENT -- OATH. There shall be three (3) highway commissioners in each district. The first highway commissioners of the highway district organized under the provisions of this chapter shall be appointed by the governor. It shall be the duty of the governor, in the appointment of the original highway commissioners, where there had been in existence any highway district within the boundary of the newly created highway district, to appoint whenever practicable, existing highway commissioners as they shall qualify by residence in the subdistricts of the newly created highway district as highway district commissioners of the newly created highway district. County commissioners, city mayors and city council members shall not be eligible to hold office as highway district commissioners. A copy of the certificate of each appointment shall be made in triplicate; one (1) certificate shall be filed in the office of the county recorder of the each county; one (1) in which the highway district is located and with the clerk of the commissioners; and one (1) with the assessor and tax collector of the county highway district. Every highway commissioner shall take and subscribe the official oath, which oath shall be filed in the office of the highway district commissioners.

SECTION 3. That Section 40-1304, Idaho Code, be, and the same is hereby amended to read as follows:

40-1304. DIVISION OF DISTRICTS INTO SUBDISTRICTS.-- VACANCY IN OFFICE OF HIGHWAY COMMISSIONER. At the meeting of the county commissioners at which the highway district is declared organized, the commissioners shall divide the highway district into three (3) subdistricts, as nearly equal in population, area and mileage as practicable, to be known as highway commissioners subdistricts one, two and three. Subdistricts may be revised or modified by the highway district commissioners as changes in conditions demand. Not more than one (1) of the highway district commissioners shall be an elector of the same highway subdistrict. The first highway district commissioners appointed by the governor shall serve until the next highway district election, at which their successors shall be elected. The highway commissioners shall take office on October 1 following their election. Any vacancy occurring in the office of highway commissioner, other than by expiration of the term of office, shall be filled by the highway district board and be for the balance of the term of the person replaced. If the remaining highway district commissioners are unable

to agree on a person to fill the vacancy within ten (10) days after the vacancy occurs, the chairman of the county commissioners of the county with the largest number of electors in which the highway district is located shall then become a member of the highway district board for the purpose of filling the vacancy only. If a majority of the highway district board so constituted shall be unable to agree upon a person to fill the vacancy within five ten (510) days, or if two (2) or more vacancies shall occur in the board of highway commissioners at one (1) time, a special election to fill the vacancy shall be called and held in the same manner provided by law for the holding of elections for highway commissioners, except that the date of the election shall be as soon as possible, and all duties imposed by law upon the highway district board in connection with elections shall be performed by the county commissioners.

When there are two (2) or more vacancies on the highway district board at the same time, the chairman of the county commissioners along with the additional county commissioners that the county commission chairman appoints, and with the remaining highway district commissioner, if applicable, shall constitute a temporary board of highway district commissioners. The temporary board of highway district commissioners shall perform the duties required by law of a highway district board of commissioners until the newly elected highway commissioners take office.

SECTION 4. That Section 40-1306, Idaho Code, be, and the same is hereby amended to read as follows:

40-1306. ORGANIZATION OF HIGHWAY COMMISSIONERS -- MEETINGS -- OFFICERS -- OFFICIAL BONDS. (1) Immediately after qualifying and appointment and after a highway district commissioner election and the newly elected commissioners take office, the highway commissioners shall meet and organize, shall elect a chairman from their number, and shall appoint a secretary and treasurer who may also be from their number. The offices of secretary and treasurer may be filled by the same person. Certified copies of all appointments, under the hand of each of the commissioners, shall be filed with the clerk of each of the county-commissioners counties in which the highway district is located and with the tax-collector secretary of the county highway district.

(2) As soon as practicable after organization, and when deemed expedient or necessary, the highway commissioners shall designate a day, hour and place at which regular meetings shall be held, which shall be within the district or at the county seat of the county in which the district is located. Regular meetings shall be held at least quarterly. ~~Minutes of all meetings must show what bills are submitted, considered, allowed or rejected. The district secretary shall make a list of all bills presented, showing to whom payable, for what service or material, when and where used, amount claimed, allowed or disallowed. The list shall be signed by the chairman and attested by the secretary. All special meetings must be ordered by the chairman or a majority of the highway commissioners; the order must be entered on the record, and the secretary must give each member not joining in the order five (5) days' notice of any special meetings. The order must~~

~~specify the business to be transacted at the special meeting and none other than that specified shall be transacted. Whenever all members of the board are present, however called, it shall be deemed a legal meeting and any lawful business may be transacted. All meetings of the highway commissioners shall be public, and a majority shall constitute a quorum for the transaction of business. A majority of the highway commissioners may exercise all of the powers of the board of highway district commissioners. All records of the highway district shall be open to the inspection of any elector during normal business hours.~~

(3) The officers of the highway district shall take and file with the district secretary an oath for the faithful performance of the duties of their respective offices. The district treasurer shall on his appointment execute and file with the district secretary an official bond in an amount as may be fixed by the highway district commissioners, which shall not be less than five fifty thousand dollars (\$50,000), and shall from time to time execute and file any further bonds as required of the highway district commissioners in amounts fixed by them, which amounts shall be at least sufficient to cover the anticipated amounts of money coming into his hands, at any one (1) time, plus an additional twenty-five per-cent percent (25%).

SECTION 5. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 40-1306A, 40-1306B and 40-1306C, Idaho Code, and to read as follows:

40-1306A. HIGHWAY DISTRICT MEETINGS -- DEFINITIONS -- OPEN TO THE PUBLIC -- NOTICE OF MEETINGS. (1) Definitions used in this section and in sections 40-1306B and 40-1306C, Idaho Code:

(a) "Board of highway district commissioners" means a quorum of two (2) or more highway commissioners, with the authority to make decisions on behalf of the highway district regarding any matter.

(b) "Decision" means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a board of highway commissioners is required, at any meeting at which a quorum is present, but shall not include those ministerial or administrative actions necessary to carry out a decision previously adopted in a meeting held in compliance with this section.

(c) "Deliberation" means the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature which do not specifically relate to a matter then pending before the board of highway district commissioners for decision.

(d) "Executive session" means any meeting or part of a meeting of the board of highway commissioners which is closed to any person for deliberation of certain matters.

(e) "Meeting" means the convening of the highway district board of commissioners to make a decision or to deliberate toward a decision on any matter.

(i) "Regular meeting" means the convening of the board of highway commissioners on the date designated by the highway district board of commissioners or fixed by law, to conduct

the business of the highway district.

(ii) "Special meeting" means a convening of the board of highway commissioners pursuant to a special call for the conduct of business as specified in the call.

(2) All meetings of the highway district board of commissioners shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by this section. A majority of the commissioners shall constitute a quorum for the transaction of business. No decision at a meeting of the highway district board of commissioners shall be made by secret ballot. A highway district shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced.

(a) Regular meetings. No less than a five (5) calendar day meeting notice shall be given unless otherwise provided by statute. Provided however, when a highway district holds meetings at regular intervals of at least once per calendar month scheduled in advance over the course of the year, the district may satisfy this meeting notice by giving meeting notices at least once each year of its regular meeting schedule. A forty-eight (48) hour agenda notice shall be required in advance of each regular meeting, however, additional agenda items may be added after completion of the agenda up to and including the hour of the meeting, provided that a good faith effort is made to include in the notice all agenda items known at the time to be probable items of discussion. The notice requirement for meetings and agendas shall be satisfied by posting such notices and agendas in a prominent place at the principal office of the highway district, or if no such office exists, at the building where the meeting is to be held.

(b) Special meetings. All special meetings must be ordered by the chairman or a majority of the highway commissioners. The order must be entered on the record, and the secretary must give each member not joining in the order twenty-four (24) hours' notice of any special meeting. The order must specify the business to be transacted at the special meeting and none other than that specified shall be transacted. No special meeting shall be held without at least a twenty-four (24) hour meeting and agenda notice, unless an emergency exists. An emergency is a situation involving injury or damage to person or property, or immediate financial loss, or the likelihood of such injury, damage or loss, when the notice requirements of this section would make such notice impracticable, or increase the likelihood or severity of such injury, damage or loss, and the reasons for the emergency are stated at the outset of the meeting. The notice required under this section shall include at a minimum: the meeting date, time, place and name of the highway district calling for the meeting. The secretary or other designee of the highway district shall maintain a list of the news media requesting notification of meetings and shall make a good faith effort to provide advance notification to them of the time and place of each meeting.

(3) Executive sessions. If an executive session only will be held, a twenty-four (24) hour meeting and agenda notice shall be given according to the notice provisions stated in subsection (2) of this

section and shall state the reason and the specific provision of law authorizing the executive session.

(4) The highway district shall provide for the taking of written minutes of all its meetings. Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law. All minutes shall be recorded in the official minute book as specified in section 40-1336(1), Idaho Code, and shall be available to the public within a reasonable time after the minutes have been approved by the board of highway commissioners, and shall include at least the following information:

- (a) All commissioners and officers of the highway district present;
- (b) All motions, resolutions, orders or ordinances proposed and their disposition;
- (c) All bills presented, showing to whom payable, for what service and material, amount, allowed and disallowed;
- (d) The results of all votes, and upon the request of a member, the vote of each member, by name;
- (e) All other action taken by the board of highway district commissioners requiring recordation as required in section 40-1336, Idaho Code; and
- (f) Minutes of executive sessions may be limited to material the disclosure of which is not inconsistent with the provisions of section 40-1306B, Idaho Code, but shall contain sufficient detail to convey the general tenor of the meeting.

40-1306B. EXECUTIVE SESSIONS -- WHEN AUTHORIZED. (1) Nothing contained in this chapter shall be construed to prevent, upon a two-thirds (2/3) vote recorded in the minutes of the meeting by individual vote, a highway district 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 an 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 an officer, employee, staff member or individual agent;
 - (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 and advise its legal representatives in pending litigation or where there is a general public awareness of probable litigation.
- (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.

40-1306C. HIGHWAY DISTRICT RECORDS -- OPEN TO THE PUBLIC. All records of the highway district are open to the public, except as provided by law. With respect to highway district records, sections 9-337 through 9-349A, Idaho Code, provide definitions, procedure for the right to examine, requests for the examination, records exempt from disclosure, copy fees, separation of exempt and nonexempt records, enforcement rights, court orders and penalties.

SECTION 6. That Section 40-1308, Idaho Code, be, and the same is hereby amended to read as follows:

~~40-1308. RATIFICATION--OF--PRIOR--CONTRACTS,--OBLIGATIONS,--LIABILITIES,--AND--JUDGMENTS---~~ POWER TO LEVY TAXES FOR SETTLEMENT COMPREHENSIVE INSURANCE, PROSECUTING AND DEFENDING ACTIONS, JUDGMENTS AND LIABILITIES. ~~Contracts, obligations and liabilities of highway districts entered into or incurred prior to July 1, 1985, are hereby ratified and confirmed and every judgment in favor of the highway district is ratified and confirmed as the right and property of the district, and~~ Every highway district has the power to levy and collect taxes as necessary to:

(1) Pay for a comprehensive insurance plan as provided in section 6-927, Idaho Code;

(2) Defray all expenses of prosecuting and defending actions; and

(3) to pay any judgments and liabilities incurred against it as provided in section 6-928, Idaho Code.

SECTION 7. That Section 40-1309, Idaho Code, be, and the same is hereby amended to read as follows:

40-1309. CORPORATE POWERS OF HIGHWAY DISTRICTS. Each highway district has power:

(1) To sue and be sued.

(2) To purchase and hold lands, make contracts, purchase and hold personal property as may be necessary or convenient for the purposes of this chapter, and to sell and exchange any real or personal property other than public lands which by the constitution and laws of the state are placed under the jurisdiction of the state land board. Personal property, no longer useful to the district, not exceeding one hundred dollars (\$100) in value may be sold by the highway commissioners at a private sale or at any regular board meeting without advertisement. The highway district commissioners shall first adopt a resolution finding that the all other personal or real property to be sold or exchanged is no longer useful to the district; that a public hearing is to be held, of which hearing notice shall be published in accordance with the provisions of section 40-206, Idaho Code, and at which hearing any person interested may appear and show cause that the sale or exchange should not be made. The hearing and sale shall not be conducted at the same regular meeting. Highway district commissioners and highway directors must be personally disinterested, directly or indirectly, in the purchase of property for the use of the highway district, or in the sale of any property belonging to the highway district, or in any contract made by the highway district or other person

on behalf of the highway district unless otherwise authorized by law.

(3) To levy and apply ad valorem taxes for purposes under its exclusive jurisdiction as are authorized by law.

SECTION 8. That Section 40-1310, Idaho Code, be, and the same is hereby amended to read as follows:

40-1310. POWERS AND DUTIES OF HIGHWAY DISTRICT COMMISSIONERS. (1) The commissioners of a highway district have, ~~except as provided in section 40-1323, Idaho Code,~~ exclusive general supervision and jurisdiction over all highways and public rights-of-way within their highway system, with full power to construct, maintain, repair and improve all highways within their highway system, whether directly or by their own agents and employees or by contract. Except as otherwise provided in this chapter in respect to the highways within their highway system, a highway district shall have all of the powers and duties that would by law be vested in the commissioners of the county and in the district directors of highways if the highway district had not been organized. Where any highway within the limits of the highway district has been designated as a state highway, then the board shall have exclusive supervision, jurisdiction and control over the designation, location, maintenance, repair and reconstruction of it. The highway district shall have power to manage and conduct the business and affairs of the district; establish and post speed and other regulatory signs; make and execute all necessary contracts; have an office and employ and appoint agents, attorneys, officers and employees as may be required, and prescribe their duties and fix their compensation. Highway district commissioners and their agents and employees have the right to enter upon any lands to make a survey, and may locate the necessary works on the line of any highways on any land which may be deemed best for the location.

(2) The highway district shall also have the right to acquire either by purchase, or other legal means, all lands and other property necessary for the construction, use, maintenance, repair and improvement of highways in their system. The highway district may change the width or location, or straighten lines of any highway in their system, and if in the constructing, laying out, widening, changing, or straightening of any highways, it shall become necessary to take private property, the district director of highways, with the consent and on order of the highway district commissioners, shall cause a survey of the proposed highway to be made, together with an accurate description of the lands required. He shall endeavor to agree with each owner of property, ~~resident of the county in which the district is situated,~~ for the purchase of a right-of-way over the lands included within the description. If the director is able to agree with the owner of the lands, the highway district commissioners may purchase the land and pay for it out of the funds of the highway district, and the lands purchased shall then be conveyed to the highway district for the use and purpose of highways.

(3) Whenever the director of highways shall be unable to agree with any person for the purchase of land, or that person shall be unknown or a nonresident of the county in which the highway district is situated, or a minor, or an insane or incompetent person, the

director shall have the right, subject to the order of the highway district commissioners, to begin action in the name of the highway district in the district court of the county in which the district is situated, to condemn the land necessary for the right-of-way for the highway, under the provisions of chapter 7, title 7, Idaho Code. An order of the highway district commissioners entered upon its minutes that the land sought to be condemned is necessary for a public highway and public use shall be prima facie evidence of the fact.

(4) The highway district has the power to contract for and pay out any special rewards and bounties as may appear expedient or useful in securing proper highway construction and maintenance, and to accept, on behalf of the district, aid or contributions in the construction or maintenance of any highway; to construct or repair, with the consent of the corporate authorities of any city within the district, any highway within a city, upon the division of the cost as may be agreed upon; or to join with the state or any body politic or political subdivision, or with any person in the construction or repair of any highway and to contract for an equitable division of the cost; and all counties, cities, highway districts and other bodies politic and political subdivisions are authorized to contract with any highway district acting through its highway district commissioners in exercise of the powers granted.

(5) The highway district has the power to receive highway petitions and lay out, alter, create and abandon and vacate public highways and public rights-of-way within their respective districts under the provisions of sections 40-202, 40-203 and 40-203A, Idaho Code. Provided however, when a public highway, public street and/or public right-of-way is part of a platted subdivision which lies within an established county/city impact area or within one (1) mile of a city if a county/city impact area has not been established, consent of the city council of the affected city, when the city has a functioning street department with jurisdiction over the city streets, shall be necessary prior to the granting of acceptance or vacation of said public street or public right-of-way by the highway district board of commissioners.

(6) The highway district is empowered to take conveyance or other assurances, in the name of the highway district, for all property acquired by it under the provisions of this chapter for the purposes of this title. The highway district may institute and maintain any and all actions and proceedings, suits at law and in equity, necessary or proper in order to carry out the provisions of this chapter, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities provided in this chapter. In all courts, actions, suits or proceedings, the highway district may sue, appear and defend, in person or by attorneys, and in the name of the highway district.

(7) The highway district is empowered to hold, use, acquire, sell, manage, occupy and possess property. The highway district may create highway divisions subdistricts, which must be carefully and distinctly defined and described. Highway divisions subdistricts may be ~~altered;~~~~changed;~~~~created~~ revised or modified by the highway district commissioners, as ~~the--need--requires~~ changes in conditions demand.

(8) The highway district board of commissioners shall have the

exclusive general supervisory authority over all public highways, public streets and public rights-of-way under their jurisdiction, with full power to establish design standards, establish use standards, pass resolutions and establish regulations in accordance with the provisions of title 49, Idaho Code, and control access to said public highways, public streets and public rights-of-way.

(9) By July 1, 2000, and every five (5) years thereafter, the highway district board of commissioners shall have published in map form and made readily available the location of all public rights-of-way under its jurisdiction. Any highway district board of commissioners may be granted an extension of time with the approval of the legislature by adoption of a concurrent resolution.

SECTION 9. That Section 40-1311, Idaho Code, be, and the same is hereby amended to read as follows:

40-1311. JURISDICTION OF HIGHWAY DISTRICT COMMISSIONERS. In respect to all highways included within a highway district highway system, the power and jurisdiction of the highway district shall be inclusive, except as provided in section 40-1323, Idaho Code, if any main highway connecting different parts of the county or connecting with territory outside of the state pass through the highway district, then the highway district commissioners shall keep the highways in their system in proper repair, and if they fail to do so, the commissioners may at any time, by giving ten (10) days' written notice sent by registered mail to the highway district commissioners, require that the highway running through the district, or connecting the district with other territory, be repaired or put in proper condition, which condition shall be specified in the notice by the commissioners. If the highway districts do not diligently pursue the work with a reasonable and sufficient effort within ten (10) days, the commissioners of any county in which the highway district lies, may enter upon the main highway and repair and put it in the condition required. The commissioners in doing the work shall keep strict and accurate account of the expenses incurred, and when the work is completed the amount shall be certified to the county treasurer who shall charge the same against the highway district and deduct the sum from any funds coming into his hands belonging to the highway district and reimburse the county within the limits of the funds available to the highway district.

SECTION 10. That Section 40-1318, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Section 40-1319, Idaho Code, be, and the same is hereby amended to read as follows:

40-1319. DIRECTOR OF HIGHWAYS -- APPOINTMENT -- QUALIFICATIONS -- OATH. As soon as possible after the organization of a highway district, the highway district commissioners may appoint a director of highways. If a director of highways is not appointed his duties shall devolve upon the highway district commissioners. The director shall be skilled and experienced in the building, maintenance and repairing of highways and bridges. The term of office of the director, ~~not exceed~~

~~ing--four-(4)-years; and his compensation, shall be fixed by the highway district commissioners. Upon appointment, he shall file with the highway district commissioners an oath of office substantially as provided for county officers.~~

SECTION 12. That Section 40-1320, Idaho Code, be, and the same is hereby amended to read as follows:

40-1320. DIRECTORS OF HIGHWAYS -- DEPUTY DIRECTORS -- APPOINTMENT -- DUTIES. The director may appoint, subject to confirmation and approval of the highway commissioners, one (1) deputy director for each subdistrict and as many additional deputy directors as the highway commissioners may determine to be advisable. It is the duty of the director of highways to give to any deputy directors specific instructions as to the highway work to be done, and shall ascertain if highway contractors in the district are complying or have complied with their contracts. The director shall require any deputy directors to keep and maintain all the highways in their divisions charge in good repair, and shall, subject to the highway commissioners and as provided by law, exercise full and complete control over all highways and deputy directors of the district. The director shall submit a monthly itemized reports to the highway district ~~showing--the--work--done--and expenditures--made--by--him; and any other report~~ whenever required by the highway commissioners; ~~and at least four-(4)-times-in--each--year, of--the--work--done; materials-used-and-expense-incurred-in-the-several divisions-of-the-district; and an approximate estimate--of--the--money needed-for-improvements-upon-the-highways.~~

SECTION 13. That Section 40-1321, Idaho Code, be, and the same is hereby repealed.

SECTION 14. That Section 40-1323, Idaho Code, be, and the same is hereby amended to read as follows:

40-1323. CITIES INCLUDED IN HIGHWAY DISTRICTS -- POWERS AND DUTIES OF CITY COUNCIL. (1) If any highway district shall include within its boundaries any incorporated city, or any portion of a city, the power of taxation on the part of the highway district as to ad valorem taxes, and in general all power of taxation or assessment, shall extend to and include the persons and property within the territory of the included city. The residents of the included territory shall be deemed for all purposes residents of the highway district, and entitled to vote at highway district elections to the same extent as other residents of the highway district. Nothing in this title shall be construed as affecting or impairing any power of taxation or assessment for local city highway purposes on the part of the authorities of the city of any included territory. Each incorporated city, or portion of it, within a highway district, shall constitute a separate division of the district. The city council of each incorporated city which-is-included-in within the territory of a highway district, so far as relates to their city, shall have the powers and duties as provided by this chapter ~~upon the commissioners of a highway district. When a city lies within a highway district, the powers and--duties--of~~

~~the council or director of highways shall be~~ and as provided in this section; ~~and the provisions of section 40-1334, Idaho Code, shall not be applicable~~ chapter 3, title 50, Idaho Code, in such case.

(2) All the provisions of this title as to voting, taxation, assessments and bonding on the part of the highway district shall apply without change or discrimination to the persons and taxable property within the included territorial limits of a city.

SECTION 15. That Section 40-1333, Idaho Code, be, and the same is hereby amended to read as follows:

40-1333. CITIES -- HIGHWAY RESPONSIBILITY. Cities, with city highway systems, shall be responsible for the construction, reconstruction and maintenance of highways in their respective city systems, except as provided in section 40-607, Idaho Code. Cities may make agreements with a county, highway district or the state for their highway work, or a portion of it, but they shall compensate the county, district or state fairly for any work performed.

SECTION 16. That Section 40-1334, Idaho Code, be, and the same is hereby repealed.

Approved March 24, 1999.

CHAPTER 333
(S.B. No. 1146, As Amended)

AN ACT

RELATING TO AN AUTOMOBILE MANUFACTURER'S DUTY TO REPAIR OR REPLACE AUTOMOBILES; AMENDING SECTION 48-902, IDAHO CODE, TO PROVIDE FOR SERVICE OR REPAIR FACILITIES; AND AMENDING SECTION 48-903, IDAHO CODE, TO INCREASE THE DIVISOR FOR CALCULATING THE REFUND ALLOWANCE.

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

SECTION 1. That Section 48-902, Idaho Code, be, and the same is hereby amended to read as follows:

48-902. MANUFACTURER'S DUTY TO REPAIR -- SERVICE AND REPAIR FACILITIES. (1) 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.

(2) Every manufacturer of motor vehicles sold and for which the manufacturer has made an express warranty shall maintain sufficient service and repair facilities reasonably close to all areas in which its motor vehicles are sold to carry out the terms of the warranties or designate and authorize as service and repair facilities independent repair or service facilities reasonably close to all areas in which its motor vehicles are sold to carry out the terms of the warranties. As a means of complying with the provisions of this subsection, a manufacturer may, in a town or city where there is not a franchise market representative, enter into warranty service contracts with independent service and repair facilities.

SECTION 2. That Section 48-903, Idaho Code, be, and the same is hereby amended to read as follows:

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 twenty thousand (1200,000). 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.

Approved March 24, 1999.

CHAPTER 334
(S.B. No. 1159)

AN ACT

RELATING TO SOCIAL SECURITY NUMBERS; AMENDING SECTION 32-403, IDAHO CODE, TO CLARIFY THE REQUIREMENTS FOR PROVIDING A SOCIAL SECURITY NUMBER ON AN APPLICATION FOR A MARRIAGE LICENSE; AMENDING SECTION 73-122, IDAHO CODE, TO CLARIFY THE REQUIREMENTS FOR PROVIDING A SOCIAL SECURITY NUMBER ON AN APPLICATION FOR A PROFESSIONAL, OCCUPATIONAL OR RECREATIONAL LICENSE; AND DECLARING AN EMERGENCY.

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.

(a) The requirement that an applicant provide a social security number shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

(i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

SECTION 2. That Section 73-122, Idaho Code, be, and the same is hereby amended to read as follows:

73-122. SOCIAL SECURITY NUMBER. (1) The social security number of an applicant shall be recorded on any application for a professional, occupational or recreational license.

(2) The requirement that an applicant provide a social security number shall apply only to applicants who have been assigned a social security number.

(3) An applicant who has not been assigned a social security number shall:

(a) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(b) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(c) Submit such proof as the department may require that the applicant is lawfully present in the United States.

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 24, 1999.

CHAPTER 335
(S.B. No. 1199)

AN ACT

RELATING TO EARLY RETIREMENT INCENTIVE FOR CERTIFICATED EMPLOYEES; AMENDING SECTION 33-1004G, IDAHO CODE, TO PROVIDE A SPECIAL APPLICATION; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 33-1004G, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004G. EARLY RETIREMENT INCENTIVE. (1) Each certificated employee of an Idaho public school district as defined in section 33-1001 13., Idaho Code, is eligible for an early retirement incentive, provided they meet the following criteria:

- (a) The employee has completed a minimum of ten (10) years of continuous full-time certified employment in Idaho public school districts at the time of application.
- (b) The employee is not eligible for unreduced service, early or disability retirement from the public employee retirement system of Idaho at the time of application.
- (c) The employee is fifty-five (55) years old before August 15 of the year the application is made.
- (d) The employee submits his/her application to the state superintendent of public instruction on or before April 1 of the year of application.
- (e) The employee is contracted with an Idaho public school district for the entire school year during the year of application and has not been terminated or on a leave of absence for the current or upcoming school year.

(2) (a) Full-time qualifying applicants shall receive as a one (1) time incentive the following amount of the employee's qualifying salary allocation as provided in section 33-1004E, Idaho Code:

at 55 years of age	55% of allocation
at 56 years of age	50% of allocation
at 57 years of age	45% of allocation
at 58 years of age	40% of allocation
at 59 years of age	30% of allocation
at 60 years of age	30% of allocation
at 61 years of age	20% of allocation
at 62 years of age	20% of allocation
at 63 years of age and over	0% of allocation

(b) Certified employees working less than full-time in the application year will have the incentive payment prorated according to their full-time equivalent (FTE) percentage.

(c) Incentive payments for certified employees not placed on the experience and education multiplier table as provided in section 33-1004A, Idaho Code, will be calculated using the BA column of the table.

(3) Incentives and the employer's share of FICA benefits shall be paid by the state department of education to the Idaho public school district with which the applicant was last contracted on or before July 31 of the year of application and acceptance.

(4) Incentives shall be considered additional compensation flowing from the employment relationship and subject to federal and state tax laws. Incentives shall not be considered salary for purposes of the public employee retirement system.

(5) Any employee receiving an early retirement incentive as provided in this section shall not be eligible for future employment with an Idaho school district where such employment would again qualify him/her for participation in the state retirement system.

(6) Any applicant choosing to withdraw their application must notify the state superintendent of public instruction in writing no later than June 20 in the year of application.

(7) A special application of the early retirement incentive shall supercede the limitations of this section to the extent necessary to comply with this subsection. An otherwise qualified certificated employee who becomes medically unable to work prior to July 1 of any year shall be eligible to apply for the early retirement incentive for which the employee would have been eligible retroactive to April 1.

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 24, 1999.

CHAPTER 336
(S.B. No. 1226)

AN ACT
RELATING TO THE GOVERNOR'S HOUSING COMMITTEE; AMENDING SECTION 67-455, IDAHO CODE, TO PROVIDE THAT THE GOVERNOR'S RESIDENCE FUND MAY BE USED TO PROVIDE A HOUSING ALLOWANCE AND FOR THE ACQUISITION, CONSTRUCTION, REMODEL, FURNISHING, EQUIPPING OR MAINTENANCE OF A GOVERNOR'S RESIDENCE AND TO PROVIDE THAT THE PROCEEDS OF ANY SALE OR RENTAL OF THE GOVERNOR'S RESIDENCE OR PROPERTY RELATED OR CASH OR CASH-EQUIVALENT DONATION THERETO SHALL BE RETURNED TO THE GOVERNOR'S RESIDENCE FUND; AMENDING CHAPTER 4, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-455A, IDAHO CODE, TO SET OUT THE POWERS OF THE GOVERNOR'S HOUSING COMMITTEE TO ACQUIRE AND DISPOSE OF REAL AND PERSONAL PROPERTY AND TO PROVIDE CERTAIN EXEMPTIONS;

AMENDING CHAPTER 3, TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 58-335B, IDAHO CODE, TO PROVIDE THAT REAL PROPERTY OF THE GOVERNOR'S HOUSING COMMITTEE IS EXEMPT FROM THE REAL PROPERTY SURPLUS PROPERTY STATUTES; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5732B, IDAHO CODE, TO PROVIDE THAT PERSONAL PROPERTY OF THE GOVERNOR'S HOUSING COMMITTEE IS EXEMPT FROM THE SURPLUS PERSONAL PROPERTY STATUTES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-455, Idaho Code, be, and the same is hereby amended to read as follows:

67-455. GOVERNOR'S HOUSING COMMITTEE -- GOVERNOR'S RESIDENCE FUND. (1) There is hereby created the governor's housing committee consisting of five (5) appointed members. The following public officials shall each appoint one (1) member to serve on the committee: the president pro tempore of the senate, the speaker of the house of representatives, the minority leader of the senate and the minority leader of the house of representatives and the director of the department of administration. Members of the committee shall serve at the pleasure of the appointing public official or his successor.

(2) There is hereby created the governor's residence fund. All moneys in or added to the governor's residence fund and any dividend or interest earnings thereon are hereby perpetually appropriated to the department of administration and set apart for the purposes of providing a governor's housing allowance and the acquisition, and construction, remodel, furnishing, equipping or maintenance of a governor's residence and the same shall be available for such purposes immediately upon being credited to the account, upon authorization for expenditure being given by the governor's housing committee. Upon the direction of the committee, the department shall use moneys in the account for any purpose related to a governor's housing allowance or the acquisition, or construction, remodel, furnishing, equipping or maintenance of a governor's residence. The net proceeds from any sale or rental of a governor's residence, or any property related thereto, and of any cash or cash-equivalent donation made to the committee, shall be returned to the governor's residence fund.

SECTION 2. That Chapter 4, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as section 67-455A, Idaho Code, and to read as follows:

67-455A. COMMITTEE MAY ACQUIRE AND DISPOSE OF PROPERTY. (1) The governor's housing committee may accept grants, gifts or donations of any kind from any private or public source related to the acquisition, construction, remodel, furnishing, equipping or maintenance of a governor's residence.

(2) The governor's housing committee may acquire real property for purposes related to a governor's residence. Any real property acquired by the governor's housing committee shall be titled in the

name of the state of Idaho for the benefit of the governor's housing committee and shall be administered by the department of administration on behalf of and for the benefit of the governor's housing committee. The governor's housing committee may sell such real property by public, private or negotiated sale, exchange, donation or by any other means and may rent a governor's residence and any furnishings and equipment related thereto, as the committee may deem appropriate and prudent. Any real property acquired hereunder shall not be subject to sections 58-331 through 58-335, Idaho Code, relating to surplus real property as the same may now exist or as the same may be amended from time to time. Any sale or disposal of such real property shall not require the reservation to the state of mineral or other rights in the real property.

(3) The governor's housing committee may acquire personal property for the purpose of remodeling, furnishing, equipping or maintaining a governor's residence. Any personal property acquired by the governor's housing committee shall be the property of the state of Idaho held for the benefit of the governor's housing committee and shall be administered on behalf of the governor's housing committee by the department of administration. The governor's housing committee may dispose of any personal property acquired hereunder by any means as the committee may deem appropriate and prudent and such disposal shall not be subject to section 67-5732A, Idaho Code, relating to surplus personal property, as the same exists or may be amended from time to time.

(4) The governor's housing committee may acquire and contract for services related to the acquisition, construction, remodel, furnishing, equipping or maintenance of a governor's residence. Notwithstanding any other law to the contrary, the acquisition, construction, remodel, furnishing, equipping or maintenance of a governor's residence shall not be considered public works and shall not be subject to any laws related to public works of the state of Idaho. Notwithstanding any other law to the contrary, the governor's housing committee shall not be subject to the purchasing laws for state agencies provided in chapter 57, title 67, Idaho Code.

(5) Notwithstanding the provisions of sections 18-1359(1)(d), 18-2705, 58-112, 59-201, 59-202 and 67-5726, Idaho Code, or any other provision of law, an incumbent governor shall not be deemed prohibited from purchasing real or personal property acquired hereunder, and any such purchase shall be valid for all purposes. Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, specific or local, the provisions of this section shall be controlling.

(6) This section shall apply to all real and personal property acquired pursuant to this section or section 67-455, Idaho Code, before or after the effective date of this section.

SECTION 3. That Chapter 3, Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION to be known and designated as section 58-335B, Idaho Code, and to read as follows:

58-335B. GOVERNOR'S HOUSING COMMITTEE LANDS EXEMPT FROM ACT. Sections 58-331 through 58-335, Idaho Code, shall not apply to real prop-

erty if acquired by or on behalf of the governor's housing committee pursuant to 67-455 or 67-455A, Idaho Code, as the same now exists or may from time to time be amended. This section shall apply to all real property acquired pursuant to section 67-455 or 67-455A, Idaho Code, before or after the effective date of this section.

SECTION 4. 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- 5732B, Idaho Code, and to read as follows:

67-5732B. GOVERNOR'S HOUSING COMMITTEE PERSONAL PROPERTY EXEMPT FROM ACT. Section 67-5732A, Idaho Code, shall not apply to personal property if acquired by or on behalf of the governor's housing committee pursuant to section 67-455 or 67-455A, Idaho Code, as the same now exists or may from time to time be amended. This section shall apply to all personal property acquired pursuant to section 67-455 or 67-455A, Idaho Code, before or after the effective date of this section.

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, 1999.

CHAPTER 337
(S.B. No. 1243)

AN ACT

RELATING TO EXEMPTION OF PENSION MONEY AND RETIREMENT OR PROFIT-SHARING BENEFITS FROM LEGAL PROCESSES; AMENDING SECTION 55-1011, IDAHO CODE, TO ADD REFERENCE TO SECTION 408A OF THE INTERNAL REVENUE CODE, AS AMENDED.

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

SECTION 1. That Section 55-1011, Idaho Code, be, and the same is hereby amended to read as follows:

55-1011. EXEMPTION OF PENSION MONEY AND RETIREMENT OR PROFIT-SHARING BENEFITS FROM LEGAL PROCESSES. (1) Except as provided in subsection (2) of this section, any money or other assets payable to a participant or beneficiary from or any interest of any participant or beneficiary in, a retirement or profit-sharing plan that is qualified under sections 401(a), 403(a), 403(b), 408, 408A or 409 of the internal revenue code, as amended, is exempt from all claims of judgment creditors of the beneficiary or participant arising out of a negligent or otherwise wrongful act or omission of the beneficiary or participant resulting in monetary damages to the judgment creditor. The exemption provided by this subsection shall be in addition to that

provided in this chapter.

(2) Any plan or arrangement described in subsection (1) of this section is not exempt from the claims of an alternate payee under a qualified domestic relations order. However, the interest of any alternate payee under a qualified domestic relations order is exempt from all claims of any creditor, other than the department of health and welfare, or the alternate payee. As used in this subsection, the terms "alternate payee" and "qualified domestic relations order" have the meanings ascribed to them in section 414(p) of the internal revenue code of 1986.

(3) The provisions of subsection (1) of this section apply to any proceeding that is filed on or after July 1, 1988.

Approved March 24, 1999.

CHAPTER 338
(S.B. No. 1253)

AN ACT

RELATING TO RESTITUTION FOR CRIME VICTIMS; AMENDING SECTION 19-5304, IDAHO CODE, TO REVISE THE DEFINITION OF VICTIM 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 19-5304, Idaho Code, be, and the same is hereby amended to read as follows:

19-5304. RESTITUTION FOR CRIME VICTIMS -- ORDERS TO BE SEPARATE -- WHEN RESTITUTION IS NOT APPROPRIATE -- OTHER REMEDIES -- EVIDENTIARY HEARINGS -- DEFINITIONS. (1) As used in this chapter:

(a) "Economic loss" includes, but is not limited to, the value of property taken, destroyed, broken, or otherwise harmed, lost wages, and direct out-of-pocket losses or expenses, such as medical expenses resulting from the criminal conduct, but does not include less tangible damage such as pain and suffering, wrongful death or emotional distress.

(b) "Found guilty of any crime" shall mean a finding by a court that a defendant has committed a criminal act and shall include an entry of a plea of guilty, an order withholding judgment, suspending sentence, or entry of judgment of conviction for a misdemeanor or felony.

(c) "Value" shall be as defined in section 18-2402(11), Idaho Code.

(d) "Property" shall be as defined in section 18-2402(8), Idaho Code.

(e) "Victim" shall mean:

(i) The directly injured victim which means a person or entity, ~~named in the complaint; information or indictment;~~ who suffers economic loss or injury as the result of the defendant's criminal conduct and shall also include the imme-

mediate family of a minor and the immediate family of the actual victim in homicide cases;

(ii) Any health care provider who has provided medical treatment to a directly injured victim if such treatment is for an injury resulting from the defendant's criminal conduct, and who has not been otherwise compensated for such treatment by the directly injured victim or the immediate family of the directly injured victim;

(iii) The account established pursuant to the crime victims compensation act, chapter 10, title 72, Idaho Code, from which payment was made for medical treatment, services or monetary benefits for injury resulting from the defendant's criminal conduct;

(iv) A person or entity who suffers economic loss because such person or entity has made payments to or on behalf of a directly injured victim pursuant to a contract including, but not limited to, an insurance contract.

(2) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order a defendant found guilty of any crime which results in an economic loss to the victim to make restitution to the victim. An order of restitution shall be a separate written order in addition to any other sentence the court may impose, including incarceration, and may be complete, partial, or nominal. The court may also include restitution as a term and condition of judgment of conviction; however, if a court orders restitution in the judgment of conviction and in a separate written order, a defendant shall not be required to make restitution in an amount beyond that authorized by this chapter. Restitution shall be ordered for any economic loss which the victim actually suffers. The existence of a policy of insurance covering the victim's loss shall not absolve the defendant of the obligation to pay restitution.

(3) If the court determines that restitution is inappropriate or undesirable or if only partial or nominal restitution is ordered, it shall enter an order articulating the reasons therefor on the record.

(4) If a separate written order of restitution is issued, an order of restitution shall be for an amount certain and shall be due and owing at the time of sentencing or at the date the amount of restitution is determined, whichever is later. An order of restitution may provide for interest from the date of the economic loss or injury.

(5) The court may order the defendant to pay restitution to the victim in any case, regardless of whether the defendant is incarcerated or placed on probation. The court may order the defendant to pay all or a part of the restitution ordered to the court to be distributed by the court to the victims in a manner the court deems just.

(6) Restitution orders shall be entered by the court at the time of sentencing or such later date as deemed necessary by the court. Economic loss shall be based upon the preponderance of evidence submitted to the court by the prosecutor, defendant, victim or presentence investigator. Each party shall have the right to present such evidence as may be relevant to the issue of restitution, and the court may consider such hearsay as may be contained in the presentence report, victim impact statement or otherwise provided to the court.

(7) The court, in determining whether to order restitution and

the amount of such restitution, shall consider the amount of economic loss sustained by the victim as a result of the offense, the financial resources, needs and earning ability of the defendant, and such other factors as the court deems appropriate. The immediate inability to pay restitution by a defendant shall not be, in and of itself, a reason to not order restitution.

(8) In determining restitution, where it appears that more than one (1) person is responsible for a crime that results in economic loss to a victim, and one (1) or more of the suspects or defendants are not found, apprehended, charged, convicted or ordered to pay restitution, the court may require the remaining defendant or defendants, who are convicted of or plead guilty to the crime, to be jointly and severally responsible for the entire economic loss to the victim.

(9) The court may, with the consent of the parties, order restitution to victims, and/or any other person or entity, for economic loss or injury for crimes which are not adjudicated or are not before the court.

(10) A defendant, against whom a restitution order has been entered, may, within forty-two (42) days of the entry of the order of restitution, request relief from the restitution order in accordance with the Idaho rules of civil procedure relating to relief from final orders.

(11) An order of restitution shall not preclude the victim from seeking any other legal remedy.

(12) Every presentence report shall include a full statement of economic loss suffered by the victim or victims of the defendant's crime or crimes.

(13) If there is more than one (1) victim, the restitution order shall provide that the directly injured victim(s) be fully compensated for so much of the loss caused by the defendant's criminal conduct which has not been paid by a third party, including persons referred to in subsection (1)(e)(ii), (iii) and (iv) 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, 1999.

CHAPTER 339
(S.B. No. 1255)

AN ACT

RELATING TO GENERAL POWERS AND DUTIES OF THE STATE BOARD OF EDUCATION; REPEALING SECTIONS 2, 3 AND 5, CHAPTER 188, LAWS OF 1997; AND AMENDING SECTION 33-107, IDAHO CODE, TO CLARIFY POWERS OF THE BOARD REGARDING CERTAIN POSTSECONDARY INSTITUTIONS.

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

SECTION 1. That Sections 2, 3 and 5, Chapter 188, Laws of 1997, be, and the same are hereby repealed.

SECTION 2. That Section 33-107, Idaho Code, be, and the same is hereby amended to read as follows:

33-107. GENERAL POWERS AND DUTIES OF THE STATE BOARD. The state board shall have power to:

(1) perform all duties prescribed for it by the school laws of the state;

(2) acquire, hold and dispose of title, rights and interests in real and personal property;

(3) have general supervision, through its executive departments and offices, of all entities of public education supported in whole or in part by state funds;

(4) delegate to its executive secretary, to its executive officer, or to such other administrators as the board may appoint, such powers as said officers require to carry out the policies, orders and directives of the board;

(5) through its executive departments and offices;

(a) enforce the school laws of the state,

(b) study the educational conditions and needs of the state and recommend to the legislature needed changes in existing laws or additional legislation;

(6) in addition to the powers conferred by chapter 24, title 33, Idaho Code;

(a) maintain a register of courses and programs offered anywhere in the state of Idaho by postsecondary institutions which are: (1) located outside the state of Idaho and are offering courses or programs for academic credit or otherwise; or (2) located within the state of Idaho but not accredited by a regional or national accrediting agency recognized by the board and are offering courses ~~or--programs~~ for academic credit. The acceptance of academic or nonacademic credit, at public postsecondary institutions in Idaho, is the prerogative of the state board of education; provided however, credit transferred into Idaho public postsecondary institutions from nonaccredited postsecondary institutions can be accepted only upon positive review and recommendation by the individual postsecondary institutions and with the approval of the state board of education. A nonaccredited postsecondary institution is one which is not accredited by a regional accrediting agency recognized by the state board or the United States department of education,

(b) require compliance by institutions which desire to offer courses or programs in Idaho with the standards and procedures established in chapter 24, title 33, Idaho Code, or those standards, procedures and criteria set by the board,

(c) violation of the provisions of this act will be referred to the attorney general for appropriate action, including, but not limited to, injunctive relief.

(7) prescribe the courses and programs of study to be offered at the public institutions of higher education, after consultation with the presidents of the affected institutions;

(8) approve new courses and programs of study to be offered at community colleges organized pursuant to chapter 21, title 33, Idaho Code, when the courses or programs of study are academic in nature and

the credits derived therefrom are intended to be transferable to other state institutions of higher education for credit toward a baccalaureate degree, and when the courses or programs of study have been authorized by the board of trustees of the community college.

Approved March 24, 1999.

CHAPTER 340
(S.B. No. 1278)

AN ACT

APPROPRIATING MONEYS TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 2000; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Executive Office of the Governor the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. GOVERNOR'S OFFICE ADMINISTRATION:			
FROM:			
General Fund	\$1,143,500	\$281,400	\$1,424,900
II. GOVERNOR'S EXPENSE ALLOWANCE:			
TO BE EXPENDED PURSUANT TO SECTION 67-808d, IDAHO CODE:			
FROM:			
General Fund		\$ 7,800	\$ 7,800
III. SOCIAL SERVICES:			
FROM:			
Federal Grant Fund	\$ 141,400		\$ 141,400
IV. ACTING GOVERNOR PAY:			
FROM:			
General Fund	\$ 9,600		\$ 9,600
GRAND			
TOTAL	\$1,294,500	\$289,200	\$1,583,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Executive Office of the Governor is authorized no more than twenty-four (24) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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, 1999.

CHAPTER 341
(S.B. No. 1279)

AN ACT

APPROPRIATING MONEYS FOR THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 2000; 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 Division of Financial Management the following amounts, to be expended for the named programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. DIVISION OF FINANCIAL MANAGEMENT:				
FROM:				
General Fund	\$1,743,000	\$287,000		\$2,030,000
Miscellaneous				
Revenue Fund	<u>22,400</u>	<u>7,500</u>		<u>29,900</u>
TOTAL	\$1,765,400	\$294,500		\$2,059,900
II. SILVER VALLEY TRUST FUND:				
FROM:				
Silver Valley Trust				
Fund	\$ 63,600	\$630,200	\$769,700	\$1,463,500
GRAND				
TOTAL	\$1,829,000	\$924,700	\$769,700	\$3,523,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Financial Management is authorized no more than twenty-five (25) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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, 1999.

CHAPTER 342
(S.B. No. 1280)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2000; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Administration the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. DIRECTOR'S OFFICE:				
FROM:				
General Fund	\$ 178,500	\$ 64,100		\$ 242,600
Industrial Special Indemnity Fund	135,900	74,100		210,000
Indirect Cost Recovery Fund	635,300	269,800	\$ 20,000	925,100
Administration and Accounting Services Fund	<u>22,200</u>			<u>22,200</u>
TOTAL	<u>\$ 971,900</u>	<u>\$ 408,000</u>	<u>\$ 20,000</u>	<u>\$ 1,399,900</u>
II. INFORMATION TECHNOLOGY & COMMUNICATIONS:				
FROM:				
General Fund	\$ 773,800	\$ 334,500	\$ 33,000	\$ 1,141,300
Administration and Accounting Services Fund	<u>1,370,600</u>	<u>1,094,200</u>	<u>163,900</u>	<u>2,628,700</u>
TOTAL	<u>\$2,144,400</u>	<u>\$ 1,428,700</u>	<u>\$ 196,900</u>	<u>\$ 3,770,000</u>
III. PUBLIC WORKS:				
FROM:				
General Fund		\$ 624,100	\$1,383,800	\$2,007,900
Permanent Building Fund	\$1,236,200	2,943,600	2,646,100	6,825,900
Administration and Accounting Services Fund	<u>1,305,300</u>	<u>3,195,000</u>	<u>164,200</u>	<u>4,664,500</u>
TOTAL	<u>\$2,541,500</u>	<u>\$ 6,762,700</u>	<u>\$4,194,100</u>	<u>\$13,498,300</u>
IV. PURCHASING:				
FROM:				
General Fund	\$ 433,600	\$ 155,600		\$ 589,200
Federal Surplus Property Revolving Fund	214,000	253,500	\$ 26,800	494,300
Administration and Accounting Services Fund	<u>598,100</u>	<u>1,017,400</u>	<u>34,400</u>	<u>1,649,900</u>
TOTAL	<u>\$1,245,700</u>	<u>\$ 1,426,500</u>	<u>\$ 61,200</u>	<u>\$ 2,733,400</u>
V. ADMINISTRATIVE RULES:				
FROM:				
Administrative Code Fund	\$ 227,300	\$ 318,000		\$ 545,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
VI. INFORMATION TECHNOLOGY RESOURCE MANAGEMENT COUNCIL:				
FROM:				
General Fund	\$ 56,000			\$ 56,000
Administration and Accounting Services Fund	<u>272,800</u>	<u>\$ 372,000</u>		<u>644,800</u>
TOTAL	\$ 328,800	\$ 372,000		\$ 700,800
VII. OFFICE OF INSURANCE MANAGEMENT:				
FROM:				
Employee Group Insurance Fund	\$ 209,200	\$ 431,800		\$ 641,000
Retained Risk Fund	<u>355,600</u>	<u>114,400</u>		<u>470,000</u>
TOTAL	\$ 564,800	\$ 546,200		\$ 1,111,000
VIII. CAPITOL COMMISSION:				
FROM:				
Capitol Endowment Income Fund		\$ 63,000	\$ 175,000	\$ 238,000
GRAND TOTAL	\$8,024,400	\$11,325,100	\$4,647,200	\$23,996,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Administration is authorized no more than one hundred seventy-two and sixty-hundredths (172.60) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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, 1999.

CHAPTER 343
(S.B. No. 1283)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, HOUSE BILL 346, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE; ADDING AN ADDITIONAL FULL-TIME EQUIVALENT POSITION AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING FOR THE REDUCTION OF GENERAL FUND MONEYS APPROPRIATED IN SECTION 1, HOUSE BILL 346, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE.

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

SECTION 1. In addition to the appropriation made in Section 1, House Bill 346, enacted by the First Regular Session of the Fifty-fifth Idaho legislature, there is hereby appropriated to the Department of Correction, the following amount to be expended for the designated programs according to the designated expense classes from the listed fund for the period July 1, 1999, through June 30, 2000:

A. ADMINISTRATION DIVISION:

FOR:

Personnel Costs	\$39,000
Operating Expenditures	<u>21,000</u>
TOTAL	<u>\$60,000</u>

FROM:

General Fund	\$60,000
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SECTION 2. In addition to the full-time positions authorized for fiscal year 2000 in Section 2, House Bill 346, enacted by the First Regular Session of the Fifty-fifth Idaho Legislature, the Department of Correction is authorized one (1) full-time equivalent position for the program specified in Section 1 of this act in accordance with Section 67-3519, Idaho Code, and no more than one thousand three hundred fifty-three and sixty-nine hundredths (1,353.69) full-time equivalent positions at any point during the period July 1, 1999 to June 30, 2000.

SECTION 3. Notwithstanding any other provision of the law to the contrary, the amount appropriated from the General Fund to the Institutional Support Program for operating expenditures in Section 1, House Bill 346, enacted by the First Regular Session of the Fifty-fifth Idaho Legislature, shall be reduced by \$60,000 for the period July 1, 1999 through June 30, 2000.

Approved March 24, 1999.

CHAPTER 344
(S.B. No. 1284)

AN ACT
APPROPRIATING MONEYS TO THE DIVISION OF HUMAN RESOURCES FOR FISCAL YEAR 2000; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Division of Human Resources the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Personnel Commission				
Fund	\$1,776,700	\$596,700	\$73,400	\$2,446,800
Seminars and Publications				
Fund		<u>57,300</u>		<u>57,300</u>
TOTAL	<u>\$1,776,700</u>	<u>\$654,000</u>	<u>\$73,400</u>	<u>\$2,504,100</u>

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Human Resources is authorized no more than thirty-seven (37) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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, 1999.

CHAPTER 345
(S.B. No. 1285)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, HOUSE BILL 334, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE.

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

SECTION 1. In addition to the appropriation made in Section 1, House Bill 334, enacted by the First Regular Session of the Fifty-fifth Idaho Legislature, there is hereby appropriated to the Department of Law Enforcement the following amount to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 1999, through June 30, 2000:

RACING COMMISSION:

FOR:	
Personnel Costs	\$10,000
Operating Expenditures	<u>70,000</u>
TOTAL	<u>\$80,000</u>
FROM:	
Idaho State Racing Commission Fund	\$80,000

Approved March 24, 1999.

CHAPTER 346
(S.B. No. 1286)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, HOUSE BILL 333, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE; AND AUTHORIZING AN ADDITIONAL FULL-TIME EQUIVALENT POSITION AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. In addition to the appropriation made in Section 1, House Bill 333, enacted by the First Regular Session of the Fifty-fifth Idaho Legislature, there is hereby appropriated to the Department of Juvenile Corrections the following amount to be expended for the designated program according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

JUVENILE JUSTICE COMMISSION:

FOR:

Personnel Costs	\$46,500
Operating Expenditures	5,000
Capital Outlay	<u>4,300</u>
TOTAL	\$55,800

FROM:

Juvenile Corrections Fund	\$15,800
Federal Grant Fund	<u>40,000</u>
TOTAL	\$55,800

SECTION 2. In addition to the full-time positions authorized for fiscal year 2000 in Section 2, House Bill 333, enacted by the First Regular Session of the Fifty-fifth Idaho Legislature, the Department of Juvenile Corrections is authorized one (1) full-time equivalent position for the program specified in Section 1 of this act in accordance with Section 67-3519, Idaho Code, and no more than two hundred seventy-three and one-half (273.5) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000.

Approved March 24, 1999.

CHAPTER 347
(S.B. No. 1183, As Amended, As Amended in the House)

AN ACT

RELATING TO IMMUNIZATION RECORDS; AMENDING CHAPTER 48, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4803, IDAHO CODE, TO DIRECT THE DEPARTMENT OF HEALTH AND WELFARE TO ESTABLISH A VOLUNTARY IMMUNIZATION REGISTRY, TO AUTHORIZE DISCLOSURE OF IMMUNIZATION RECORDS AND TO PROVIDE PENALTIES FOR UNAUTHORIZED DISCLO-

SURES; AND AMENDING SECTION 9-340C, IDAHO CODE, AS ENACTED BY HOUSE BILL 93 OF THE FIRST REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE, TO PROVIDE AN EXEMPTION FROM DISCLOSURE FOR THE INFORMATION IN THE REGISTRY OF IMMUNIZATIONS; AND AMENDING CHAPTER 48, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4804, IDAHO CODE, TO PROVIDE FOR NOTICE TO THE PARENT OR GUARDIAN BEFORE AN IMMUNIZATION IS ADMINISTERED THAT THE IMMUNIZATION IS VOLUNTARY, PARTICIPATION IN THE IMMUNIZATION REGISTRY IS VOLUNTARY AND THAT THE PARENT OR GUARDIAN IS ENTITLED TO BE TOLD OF POSSIBLE COMPLICATIONS OF THE IMMUNIZATION.

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

SECTION 1. That Chapter 48, 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 39-4803, Idaho Code, and to read as follows:

39-4803. IMMUNIZATION REGISTRY. (1) The department of health and welfare shall provide for the establishment of a voluntary registry of the immunization status of Idaho children against childhood diseases. The registry may be maintained and its data disclosed as set out herein to further the following purposes:

- (a) To make immunizations readily available to every Idaho citizen that desires to have their child immunized;
- (b) To increase the voluntary immunization rate in Idaho to the maximum extent possible without mandating such immunizations;
- (c) To recognize and respect the rights of parents and guardians to make health care decisions for their children;
- (d) To provide for timely reminders to parents of children in the registry.

(2) The name of a child or information relating to the immunization status of that child may be collected or included in the registry only upon the separate and specific written authorization of a parent, guardian or other person legally responsible for the care of the child. Such authorization may not be part of a general authorization or release. The registry may contain only the following information for each child:

- (a) The child's name, address and birth date;
- (b) The name and address of each parent of the child;
- (c) The month, day, year and type of each immunization that has been administered to the child;
- (d) The name, address and phone number of each provider that has administered an immunization to the child;
- (e) If requested by a parent or guardian, any statement made pursuant to subsection (4) of this section;
- (f) Other information as authorized or requested by a parent or guardian.

(3) The department of health and welfare may only disclose information relating to an individual child in the registry to the following upon a specific request:

- (a) Employees of the health district in which the child resides or seeks medical services;

- (b) Health records staff of the school or school district in which the child is enrolled;
 - (c) The operator of a licensed child care facility in which the child is enrolled;
 - (d) Persons who are legally responsible for the long-term care of the child, including operators of licensed ICF/MR's and residential care facilities, adoptive and foster parents and a guardian appointed pursuant to chapter 5, title 15, Idaho Code;
 - (e) Any health care provider rendering treatment to the child, and the provider's agents;
 - (f) Any person possessing a lawful release, properly executed by the child's parent or guardian;
 - (g) A parent of the child;
 - (h) Any hospital where the child is receiving care.
- (4) A parent or guardian of the child shall have free and open access to all information in the registry that relates to their child or themselves. Upon the written request of a parent or guardian, the department of health and welfare shall:
- (a) Cause all information relating to the child to be removed from the registry and any databases or files of other entities or persons to which information in the database has been disclosed;
 - (b) Include in the registry the statement of a physician or parent pursuant to section 39-4802(2) or 39-1118(2), Idaho Code.
- (5) All information contained in the registry or disclosed from it is confidential and may not be sold and may only be disclosed as specifically authorized in this section. A person or entity to whom information is disclosed from the registry may not thereafter disclose it to others. Any person who discloses or authorizes disclosure of any information contained in the registry, except as authorized in this section is guilty of a misdemeanor and is liable for civil damages in the amount of one hundred dollars (\$100) for each violation.

SECTION 2. That Section 9-340C, Idaho Code, as added by Section 4, House Bill 93, enacted by the First Regular Session of the Fifty-fifth Idaho Legislature, be, and the same is hereby amended to read as follows:

9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure:

- (1) 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.

(2) 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.

(3) 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.

(4) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records.

(5) 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.

(6) 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.

(7) Employment security information and unemployment insurance benefit information, except that all interested parties may agree to waive the exemption.

(8) 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 pursu-

ant to a statutory requirement for licensing, certification, permit or bonding.

(9) 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.

(10) The records, finding, determinations and decision of any pre-litigation screening panel formed under chapter 10, title 6, Idaho Code.

(11) Board of professional discipline reprimands by informal admonition pursuant to subsection (6)(f) of section 54-1806A, Idaho Code.

(12) Records of the department of health and welfare or a public health district that identify a person infected with a reportable disease.

(13) 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.

(14) Information collected pursuant to the directory of new hires act, chapter 16, title 72, Idaho Code.

(15) Personal information contained in motor vehicle and driver records that is exempt from disclosure under the provisions of chapter 2, title 49, Idaho Code.

(16) Records of the financial status of prisoners pursuant to subsection (2) of section 20-607, Idaho Code.

(17) Records of the department of law enforcement or department of correction received or maintained pursuant to section 19-5514, Idaho Code, relating to DNA databases and databanks.

(18) Records and information contained in the registry of immunizations against childhood diseases maintained in the department of health and welfare, including information disseminated to others from the registry by the department of health and welfare.

SECTION 3. That Chapter 48, 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 39-4804, Idaho Code, and to read as follows:

39-4804. NOTIFICATION TO PARENT OR GUARDIAN. Before an immunization is administered to any child in this state, the parent or guardian of the child shall be notified that:

(1) Immunizations are not mandatory and may be refused on religious or other grounds;

- (2) Participation in the immunization registry is voluntary;
 (3) The parent or guardian is entitled to an accurate explanation of the complications known to follow such immunization.

Approved March 25, 1999.

CHAPTER 348
 (S.B. No. 1262)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES FOR FISCAL YEAR 2000; 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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
PUBLIC HEALTH SERVICES:				
FROM:				
General Fund	\$2,700,600	\$1,477,100	\$ 2,008,300	\$ 6,186,000
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	3,688,600	21,077,900	27,924,500
Cooperative Welfare Fund (Other)	<u>1,579,900</u>	<u>1,357,000</u>	<u>2,648,200</u>	<u>5,585,100</u>
TOTAL	\$8,506,400	\$7,213,700	\$26,751,900	\$42,472,000

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 1999, to be used for nonrecurring expenditures only for the period July 1, 1999, through June 30, 2000. 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, 1999, through June 30, 2000.

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 25, 1999.

CHAPTER 349
(S.B. No. 1090)

AN ACT

RELATING TO REGISTRATION OF SEXUAL OFFENDERS; AMENDING SECTION 18-8303, IDAHO CODE, TO PROVIDE DEFINITIONS OF "EMPLOYED" AND "STUDENT"; AMENDING SECTION 18-8304, IDAHO CODE, TO PROVIDE THE CORRECT NAMES OF ASSAULT WITH ATTEMPT TO COMMIT RAPE AND BATTERY WITH ATTEMPT TO COMMIT RAPE AND TO PROVIDE APPLICATION TO A NON-RESIDENT REGULARLY EMPLOYED OR WORKING IN IDAHO OR WHO IS A STUDENT IN THE STATE OF IDAHO; AND AMENDING SECTION 18-8307, IDAHO CODE, TO PROVIDE FOR REGISTRATION OF INDIVIDUALS WHO HAD REGISTERED UNDER PRIOR SEX OFFENDER REGISTRATION ACTS AND TO PROVIDE FOR NONRESIDENTS TO REGISTER UPON CERTAIN CONDITIONS.

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

SECTION 1. That Section 18-8303, Idaho Code, be, and the same is hereby amended to read as follows:

18-8303. DEFINITIONS. As used in this chapter:

(1) "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) "Employed" means full or part-time employment exceeding ten (10) consecutive working days or for an aggregate period exceeding thirty (30) days in any calendar year, or any employment which involves counseling, coaching, teaching, supervising or working with minors in any way regardless of the period of employment, whether such

employment is financially compensated, volunteered or performed for the purpose of any government or education benefit.

(5) "Incarceration" means committed to the custody of the Idaho department of correction, but excluding cases where the court has retained jurisdiction.

(56) "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.

(67) "Offense" means a sexual offense listed in section 18-8304, Idaho Code.

(78) "Predatory" means actions directed at an individual who was selected by the offender for the primary purpose of engaging in illegal sexual behavior.

(89) "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.

(910) "Residence" means the offender's present place of abode.

(11) "Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher education.

(102) "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.

SECTION 2. That Section 18-8304, Idaho Code, be, and the same is hereby amended to read as follows:

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 (assault with attempt to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (battery with attempt to commit 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.

(d) Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded guilty to a crime covered by this chapter and, as a result of such conviction, finding or plea, is required to register in his state of residence.

(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.

SECTION 3. That Section 18-8307, Idaho Code, be, and the same is hereby amended to read as follows:

18-8307. LOCAL AND ANNUAL REGISTRATION.

(1) (a) 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. Individuals registered under the prior sex offender registration act, including those who registered within twelve (12) months of the effective date of this act, shall register with the sheriff of the county of residence within ten (10) days of the effective date of this act. 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.

(b) Nonresidents required to register pursuant to subsection (1)(d) of section 18-8304, Idaho Code, shall register with the sheriff of the county where employed or enrolled as a student within ten (10) days of the commencement of employment or enrollment as a student in an educational institution; provided that nonresidents employed in counseling, coaching, teaching, supervising or working with minors in any way regardless of the period of employment, must register prior to the commencement of such

employment.

(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.

CHAPTER 350

(S.B. No. 1091, As Amended, As Amended)

AN ACT

RELATING TO THE EDUCATIONAL SUPPORT PROGRAM; AMENDING SECTION 33-1004E, IDAHO CODE, TO PROVIDE A SALARY BENEFIT FOR AN INSTRUCTIONAL STAFF MEMBER DESIGNATED AS A MASTER TEACHER AND TO CORRECT A CODIFIER'S ERROR.

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

SECTION 1. 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 \$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. If an instructional staff member has been certified by the national board for professional teaching standards, the staff member shall be designated as a master teacher and receive \$2,000 per year for five (5) years. The instructional salary shall be increased by \$2,000 for each master teacher. The resulting amount is the district's salarybased salary-based apportionment for instructional staff. For purposes of this section, teachers qualifying for the salary increase as master teacher shall be those who have been recognized as national board certified teachers as of July 1 of each year.

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 \$29,708. 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 \$15,759 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.

Approved March 25, 1999.

CHAPTER 351

(S.B. No. 1185, As Amended in the House)

AN ACT

RELATING TO USE OF AN AUTOMATED EXTERNAL DEFIBRILLATOR; AMENDING CHAPTER 3, TITLE 5, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 5-337, IDAHO CODE, TO DEFINE AN AUTOMATED EXTERNAL DEFIBRILLATOR, TO PRESCRIBE THE CONDITIONS FOR USE AND TO PROVIDE IMMUNITY TO PERSONS WHO COMPLY WITH THE REQUIREMENTS OF THIS SECTION IN USING A DEFIBRILLATOR IN AN EMERGENCY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 3, Title 5, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 5-337, Idaho Code, and to read as follows:

5-337. IMMUNITY FOR USE OF AUTOMATED EXTERNAL DEFIBRILLATOR (AED). (1) As used in this section, "defibrillator" means an "automated external defibrillator (AED)" which has been prescribed by a physician or osteopath licensed pursuant to chapter 18, title 54, Idaho Code.

(2) In order to promote public health and safety:

(a) A person or entity who acquires a defibrillator as a result of a prescription shall ensure that:

(i) Expected defibrillator users receive training in its use and care equivalent to the CPR and AED training of the American heart association, the American red cross or similar entities;

(ii) The defibrillator is maintained and tested according to the manufacturer's operational guidelines;

(iii) There is involvement of a licensed physician in the site's program to ensure compliance with requirements for training, notification, maintenance and guidelines for use;

(iv) Any person who renders emergency care or treatment to a person in cardiac arrest by using a defibrillator must activate the emergency medical services system as soon as possi-

ble, and must report any clinical use of the defibrillator to the prescribing physician.

(b) Any person or entity who acquires a defibrillator as a result of a prescription shall notify an agent of the emergency communications system or emergency vehicle dispatch center of the existence, location and type of defibrillator.

(3) No cause of action shall be maintained which arises from the good faith use of a defibrillator in an emergency setting. This immunity from civil liability does not apply if the acts or omissions amount to gross negligence or willful or wanton misconduct.

(4) A defibrillator acquired pursuant to a prescription and possessed in compliance with subsection (2) of this section is exempt from the provisions of chapter 1, title 39, 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, 1999.

CHAPTER 352
(S.B. No. 1270)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2000; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME POSITIONS; APPROPRIATING AND TRANSFERRING CERTAIN MONEYS TO THE PARKS AND RECREATION FUND; REAPPROPRIATING CERTAIN FUNDS FOR CAPITAL OUTLAY; AUTHORIZING THE CONTINUOUS APPROPRIATION OF CERTAIN FUNDS TO OPERATE THE DEPARTMENT'S ENTREPRENEURIAL BUDGET SYSTEM; AUTHORIZING THE TRANSFER OF CERTAIN FUNDS INTO THE PARK LAND TRUST FUND; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN DEDICATED FUNDS; APPROPRIATING MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2000; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Parks and Recreation 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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General					
Fund	\$1,140,500	\$ 697,100	\$ 49,600		\$ 1,887,200
Parks and Recreation					
Fund	337,700	420,300	50,300		808,300
Recreational Fuels					
Fund	49,700	22,400	5,000		77,100
Parks and Recreation Registration					
Fund	23,100	35,600			58,700
Public Recreation Enterprise					
Fund		2,500			2,500
Federal Grant					
Fund	14,800	5,100		\$ 36,400	56,300
Indirect Cost Recovery					
Fund	47,500	6,400			53,900
Miscellaneous Revenue					
Fund	4,300	17,300			21,600
TOTAL	\$1,617,600	\$1,206,700	\$ 104,900	\$ 36,400	\$ 2,965,600
II. PARK OPERATIONS:					
FROM:					
General					
Fund	\$3,928,000	\$ 818,000	\$ 60,000		\$ 4,806,000
Parks and Recreation					
Fund	1,070,000	790,400	23,500		1,883,900
Recreational Fuels					
Fund	13,200	36,000	500,000		549,200
Public Recreation Enterprise					
Fund	170,200	583,200	160,000		913,400
Parks and Recreation Expendable Trust					
Fund	68,900	101,100	5,000		175,000
Federal Grant					
Fund	622,300	146,900	10,000		779,200
Miscellaneous Revenue					
Fund	5,000	76,400			81,400
TOTAL	\$5,877,600	\$2,552,000	\$ 758,500		\$ 9,188,100
III. PARK DEVELOPMENT:					
FROM:					
General					
Fund	\$ 241,200	\$ 6,600	\$ 160,200	\$ 1,000,000	\$ 1,408,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Parks and Recreation Fund	95,100	48,300			143,400
Recreational Fuels Fund	144,900		1,272,800		1,417,700
Parks and Recreation Expendable Trust Fund			10,000		10,000
TOTAL	\$ 481,200	\$ 54,900	\$ 1,443,000	\$ 1,000,000	\$ 2,979,100
IV. RECREATION RESOURCES:					
FROM:					
General Fund	\$ 86,000	\$ 34,300	\$ 39,000		\$ 159,300
Recreational Fuels Fund	294,700	126,700	750,000	\$ 2,318,700	3,490,100
Parks and Recreation Registration Fund	202,700	290,800	78,900	5,788,700	6,361,100
Petroleum Price Violation Fund				300,000	300,000
Federal Grant Fund	177,200	128,700		810,000	1,115,900
Indirect Cost Recovery Fund	93,500	29,800	1,000		124,300
TOTAL	\$ 854,100	\$ 610,300	\$ 868,900	\$ 9,217,400	\$11,550,700
GRAND TOTAL	\$8,830,500	\$4,423,900	\$3,175,300	\$10,253,800	\$26,683,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Parks and Recreation is authorized no more than one hundred fifty-one and twenty-five one-hundredths (151.25) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 appropriated and transferred to the Parks and Recreation Fund the following amounts: \$25,000 from the Tourism and Promotion Fund; \$25,000 from the State Highway Fund; and \$25,000 from the Recreational Vehicle Fund. These appropriations will provide the matching fund support of the Gateway Visitor Centers in the Administration Program in Section 1 of this act.

SECTION 4. Notwithstanding Section 67-3511(2), Idaho Code, the

trustee and benefit payments in the Recreation Resources Program may be transferred to the Park Development Program to reflect project grants awarded to the Department of Parks and Recreation. Unexpended and unencumbered capital outlay balances in the Park Development Program for fiscal year 1999 are hereby reappropriated for capital outlay in that program for the period July 1, 1999, through June 30, 2000.

SECTION 5. All revenue generated from the operation of an Entrepreneurial Budget System (EBS) shall be deposited in the department's special revenue funds and are hereby continuously appropriated to the department to cover expenses directly related to the EBS activities. The department shall prepare fiscal year annual reports for the Joint Finance-Appropriations Committee showing receipts and expenditures.

SECTION 6. Upon the request of the director of the Department of Parks and Recreation, the State Controller shall transfer \$1,000,000 to the Park Land Trust Fund from the General Funds appropriated in Section 1 of this act for trustee and benefit payments in the Park Development Program. All moneys provided to the Park Land Trust Fund for the acquisition of state lands at Ponderosa State Park are hereby continuously appropriated.

SECTION 7. It is legislative intent that the Department of Parks and Recreation report to the Joint Finance-Appropriations Committee at its fall interim meeting about the feasibility of using other dedicated park project funds toward the purchase of the Ponderosa State Park property or other projects in lieu of General Funds.

SECTION 8. There is hereby appropriated to the Lava Hot Springs Foundation the following amounts, to be expended according to the designated expense classes from the listed fund for the period July 1, 1999, through June 30, 2000:

LAVA HOT SPRINGS FOUNDATION:

FOR:	
Personnel Costs	\$490,100
Operating Expenditures	463,600
Capital Outlay	49,200
TOTAL	<u>\$1,002,900</u>
FROM:	
Public Recreation Enterprise - Lava Hot Springs Fund	\$1,002,900

SECTION 9. In accordance with Section 67-3519, Idaho Code, the Lava Hot Springs Foundation is authorized no more than ten (10) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, for the program specified in Section 8 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, 1999.

CHAPTER 353
(S.B. No. 1271)

AN ACT

APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 2000; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; REAPPROPRIATING A CERTAIN UNEXPENDED AND UNENCUMBERED BALANCE OF GENERAL FUNDS; 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 expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
STATE DEPARTMENT OF EDUCATION:					
FROM:					
General					
Fund	\$2,572,200	\$1,859,700	\$45,000	\$ 522,500	\$ 4,999,400
Driver's Education					
Fund	126,300	145,400		2,043,300	2,315,000
Public Instruction					
Fund	309,300	939,500		11,100	1,259,900
Public School Income					
Fund		700			700
Student Tuition					
Recovery Fund		5,300		48,900	54,200
Federal Grant					
Fund	2,474,500	1,756,300		79,690,600	83,921,400
Indirect Cost					
Recovery					
Fund	230,000	165,500			395,500
Data Processing					
Services					
Fund	141,900	41,600			183,500
TOTAL	\$5,854,200	\$4,914,000	\$45,000	\$82,316,400	\$93,129,600

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, 1999, through June 30, 2000, 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 282, Laws of 1998, to be used for nonrecurring expenditures for the period July 1, 1999, through June 30, 2000.

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, 1999, 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, 1999, 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 25, 1999.

CHAPTER 354
(S.B. No. 1272)

AN ACT
APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR
2000.

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, to be expended according to the designated expense class from the listed fund for the period July 1, 1999, through June 30, 2000:

FOR:	
Trustee/Benefit Payments	\$14,361,800
FROM:	
General Fund	\$14,361,800

Approved March 25, 1999.

CHAPTER 355
(S.B. No. 1273)

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 2000; 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; 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; ESTABLISHING AN AMOUNT OF THE GENERAL FUND APPROPRIATION TO BE EXPENDED FOR TEACHER PREPARATION ACTIVITIES; ESTABLISHING AN AMOUNT OF THE GENERAL FUND APPROPRIATION TO BE EXPENDED FOR A COLLEGE AND UNIVERSITY EXCELLENCE INITIATIVE; 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, 1999, through June 30, 2000:

FOR:

General Education Programs

\$269,408,500

FROM:

General Fund

\$201,960,100

Agricultural College Endowment Fund

1,095,700

Charitable Institutions Endowment Earnings Fund

1,173,900

Normal School Endowment Earnings Fund

3,933,500

Science School Endowment Fund

3,140,400

University Endowment Fund

2,996,500

Unrestricted Current Fund

23,314,000

Restricted Current Fund

31,794,400

TOTAL

\$269,408,500

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.

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. Of the amount appropriated from the General Fund in Section 1 of this act, \$500,000 shall be used for teacher preparation activities associated with Idaho's Comprehensive Literacy Act as prescribed in Section 33-1207A, Idaho Code, as added by Section 1, House Bill No. 178, as enacted by the First Regular Session of the Fifty-fifth Idaho Legislature.

SECTION 6. Of the amount appropriated from the General Fund in Section 1 of this act, \$1,300,000 shall be used for the College and University Excellence Initiative as outlined in the fiscal year 2000 executive budget recommendation. A report on the use and success of this initiative shall be submitted to the Joint Finance-Appropriations Committee prior to consideration of the fiscal year 2001 budget.

SECTION 7. 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, 1999, through June 30, 2000, the provisions of Section 67-3516(1), Idaho Code, with respect to the unrestricted current fund and restricted current fund only, and Section 67-3516(3) and (4), Idaho Code, notwithstanding.

SECTION 8. 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 9 of this act, the unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 317, Laws of 1998, to be used for nonrecurring expenditures, for the period July 1, 1999, through June 30, 2000.

SECTION 9. The reappropriation for the General Fund granted in Section 8 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, is zero, the reappropriation for the General Fund in Section 8 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 8 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 25, 1999.

CHAPTER 356
(S.B. No. 1274)

AN ACT

APPROPRIATING MONEYS FOR THE HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2000; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; RE-APPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR THE SEVERAL DESIGNATED PROGRAMS; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WOI VETERINARY EDUCATION:					
FROM:					
General					
Fund	\$ 399,100	\$ 943,500	\$13,200		\$1,355,800
II. WWAMI MEDICAL EDUCATION:					
FROM:					
General					
Fund	\$ 589,100	\$ 61,500	\$13,600	\$2,012,300	\$2,676,500
Unrestricted					
Current					
Fund	22,600	3,200		103,000	128,800
TOTAL	\$ 611,700	\$ 64,700	\$13,600	\$2,115,300	\$2,805,300
III. IDEP DENTAL EDUCATION:					
FROM:					
General					
Fund	\$ 155,800	\$ 13,300		\$ 406,000	\$ 575,100
Unrestricted					
Current					
Fund	71,200				71,200
TOTAL	\$ 227,000	\$ 13,300		\$ 406,000	\$ 646,300
IV. WICHE AND UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General					
Fund				\$ 656,700	\$ 656,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. FAMILY PRACTICE RESIDENCIES:					
FROM:					
General					
Fund	\$ 348,500	\$ 99,100	\$ 1,500	\$ 449,100	\$ 898,200
GRAND					
TOTAL	\$1,586,300	\$1,120,600	\$28,300	\$3,627,100	\$6,362,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than nineteen and thirty-nine hundredths (19.39) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 316, Laws of 1998, for each respective program to be used for nonrecurring expenditures for the period July 1, 1999, through June 30, 2000.

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, 1999, 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, 1999, 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 25, 1999.

CHAPTER 357
(S.B. No. 1275)

AN ACT

APPROPRIATING MONEYS TO THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO AND THE STATE BOARD OF EDUCATION FOR TEACHER TRAINING FOR

FISCAL YEAR 2000; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO EXPENDITURE OF FUNDS FOR TEACHER TRAINING.

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

SECTION 1. There is hereby appropriated \$1,000,000 from the General Fund to the Board of Regents of the University of Idaho and the State Board of Education, for teacher training, to be expended for the period July 1, 1999, through June 30, 2000.

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 teacher training in Section 1 of this act.

Approved March 25, 1999.

CHAPTER 358
(S.B. No. 1276)

AN ACT

APPROPRIATING ADDITIONAL MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1999; APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2000; LIMITING FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; AND DECLARING AN EMERGENCY FOR SECTION 1 OF THIS ACT.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 281, Laws of 1998, there is hereby appropriated to the State Board of Education for the Office of the State Board of Education the following amount to be expended for the designated expense classes from the listed fund for the period July 1, 1998, through June 30, 1999:

FOR:	
Personnel Costs	\$ 69,300
Operating Expenditures	188,700
Capital Outlay	<u>7,200</u>
TOTAL	\$265,200
FROM:	
Miscellaneous Revenue Fund	\$265,200

SECTION 2. 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 expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
OFFICE OF THE STATE BOARD OF EDUCATION:					
FROM:					
General					
Fund	\$1,069,600	\$260,200	\$16,300	\$100,000	\$1,446,100
Miscellaneous					
Revenue					
Fund	<u>230,000</u>	<u>248,700</u>	<u>500</u>		<u>479,200</u>
TOTAL	<u>\$1,299,600</u>	<u>\$508,900</u>	<u>\$16,800</u>	<u>\$100,000</u>	<u>\$1,925,300</u>

SECTION 3. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than twenty-one (21) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, for the program specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. 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 281, Laws of 1998, to be used for non-recurring expenditures for the period July 1, 1999, through June 30, 2000.

SECTION 5. The reappropriation granted in Section 4 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, is zero, the reappropriation in Section 4 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 4 of this act shall be in the proportion that the reappropriation for the Office of the State Board of Education bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after its passage and approval.

Approved March 25, 1999.

CHAPTER 359

(H.B. No. 55, As Amended, As Amended in the Senate)

AN ACT

RELATING TO OPERATION OF A SNOWMOBILE; AMENDING SECTION 67-7110, IDAHO CODE, TO STRIKE REFERENCE TO RESTRICTION UPON OPERATING A SNOWMOBILE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR NARCOTICS OR HABIT-FORMING DRUGS; AND AMENDING CHAPTER 71, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7114, IDAHO CODE, TO PROVIDE THAT OPERATION OF A SNOWMOBILE OR ALL-TERRAIN VEHICLE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCE IN CERTAIN PLACES SHALL BE A MISDEMEANOR.

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

SECTION 1. That Section 67-7110, Idaho Code, be, and the same is hereby amended to read as follows:

67-7110. RESTRICTIONS. It shall be unlawful for any person to drive or operate any snowmobile:

(1) At a rate of speed greater than reasonable and prudent under the existing conditions.

(2) ~~While under the influence of intoxicating liquor or narcotics or habit-forming drugs.~~

~~(3)~~ In a negligent manner so as to endanger the person or property of another, or to cause injury or damage to either, or to harass, chase or annoy any wild game animals or birds or domestic animals.

(43) Without a lighted headlight and taillight between the hours of dusk and dawn, or when upon or crossing any public roadway or highway, or when otherwise required for the safety of others.

(54) Without an adequate braking device which may be operated by either hand or foot.

(65) Without an adequate muffler, except when used in conjunction with public racing events.

(76) Upon a public roadway or highway without a valid motor vehicle operator's license, unless the public roadway or highway is closed to other motor vehicle travel.

SECTION 2. That Chapter 71, 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 67-7114, Idaho Code, and to read as follows:

67-7114. OPERATION UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCE. Any person driving or operating a snowmobile or all-terrain vehicle under the influence of alcohol, drugs or any other intoxicating substance on a public roadway or highway, as authorized in this chapter, or off-road shall be guilty of a misdemeanor.

Approved March 25, 1999.

CHAPTER 360
(H.B. No. 58)

AN ACT

RELATING TO EMERGENCY MEDICAL SERVICES; AMENDING CHAPTER 1, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-146B, IDAHO CODE, TO ESTABLISH THE EMERGENCY MEDICAL SERVICES ACCOUNT III AND TO PROVIDE THAT THE BUREAU OF EMERGENCY MEDICAL SERVICES OF THE DEPARTMENT OF HEALTH AND WELFARE SHALL BE RESPONSIBLE FOR DISTRIBUTION OF GRANTS FROM THE ACCOUNT TO QUALIFIED APPLICANTS; AMENDING SECTION 49-306, IDAHO CODE, TO INCREASE THE FEES FOR DRIVERS' LICENSES AND COMMERCIAL DRIVER INSTRUCTION PERMITS, TO PROVIDE FOR DISTRIBUTION OF THE INCREASE TO THE EMERGENCY MEDICAL SERVICES ACCOUNT III AND TO MAKE A TECHNICAL CORRECTION; PROVIDING LEGISLATIVE REVIEW; PROVIDING AN EFFECTIVE DATE FOR SECTIONS 1 AND 3 OF THIS ACT; AND PROVIDING AN EFFECTIVE DATE FOR SECTION 2 OF THIS ACT.

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

SECTION 1. That Chapter 1, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-146B, Idaho Code, and to read as follows:

39-146B. EMERGENCY MEDICAL SERVICES ACCOUNT III. (1) There is hereby created in the dedicated fund of the state treasury an account known as the emergency medical services account III. Subject to appropriation by the legislature, moneys in the account shall be used exclusively for the purpose of acquiring vehicles and equipment for use by emergency medical services personnel in the performance of their duties which include highway safety and emergency response to motor vehicle accidents.

(2) The bureau of emergency medical services of the department of health and welfare shall be responsible for distributing moneys from the account to qualifying nonprofit and governmental entities that submit an application for a grant from the account. The bureau shall approve grants based on the following criteria:

(a) The requesting entity is a nonprofit or governmental entity which holds a current license as an ambulance or nontransport service issued by the state of Idaho;

(b) The requesting entity has demonstrated need based on criteria established by the bureau;

(c) The requesting entity has provided verification that it has received the approval and endorsement of a city or county within its service area;

(d) The requesting entity has certified that the title to any vehicle purchased with funds from the account shall be in the name of the city or county which endorsed the application and shall submit proof of titling as soon as practicable;

(e) The state of Idaho shall retain a security interest in the vehicle to secure the performance of the grant recipient to uti-

lize the vehicle consistent with the intent described in the application.

(3) Notwithstanding the requirements of subsections (2)(c) and (2)(d) of this section, the bureau of emergency medical services is authorized to approve and issue a grant to an applicant in the absence of an endorsement if the endorsement is withheld without adequate justification.

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, extension or driver's license shall be accompanied by the following fee, none of which is refundable:

- (a) Class A, B, C license with endorsements \$248.50
- (b) Class D license \$204.50
- (c) Class A, B, C instruction permit \$159.50
- (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 \$55.00
- (j) Class D skills test \$15.00
- (k) Motorcycle endorsement skills test \$ 5.00
- (l) Knowledge test \$ 3.00
- (m) Seasonal driver's license..... \$237.50
- (n) One time motorcycle "M" endorsement \$11.50
- (o) Motorcycle endorsement instruction permit \$11.50
- (p) Restricted driving permit \$35.00

(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 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.

(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 four dollars (\$4.00) of each such fee shall be deposited in the emergency medical services account III created in section

39-146B, 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) Four dollars (\$4.00) of each fee for a class A, B, or C instruction permit shall be deposited in the emergency medical services account III created in section 39-146B, Idaho Code; and

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

(ef) 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

(fg) 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

(gh) 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

(hi) 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

(ij) 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

(jk) 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

(kl) 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 33-4904, Idaho Code; and

(lm) 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 not more than fifty dollars (\$50.00) of the skills test fee. A contractor administering a class A, B, or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) Thirty-five dollars (\$35.00) of each restricted driving permit shall be deposited in the state highway account.

(11) 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.

(12) The department may issue seasonal class B or C driver's licenses to drivers who:

- (a) Have not violated the single license provisions of 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. LEGISLATIVE REVIEW. It is the intent of the legislature that the director of the Department of Health and Welfare shall be responsible for submitting a report on the effectiveness of the provisions of this act. The report shall be submitted to the Second Regular Session of the Fifty-seventh Idaho Legislature no later than January 13, 2004. The report shall include: the amount of revenue which has accrued to the account in each fiscal year, a detailed accounting of the distribution of moneys from the account, a determination of whether administration of the account is cost-effective, an evaluation of the extent to which moneys appropriated from the account have contributed to the purposes for which the account was established, and any other information which will assist the legislature in its review.

SECTION 4. Sections 1 and 3 of this act shall be effective on and after July 1, 1999.

SECTION 5. Section 2 of this act shall be effective on and after January 1, 2000.

Approved March 25, 1999.

CHAPTER 361

(H.B. No. 80, As Amended in the Senate)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3029A, IDAHO CODE, TO SPECIFY ELIGIBILITY FOR INCOME TAX CREDIT AS A CHARITABLE CONTRIBUTION FOR EDUCATIONAL PURPOSES FOR UNIVERSITY RELATED RESEARCH PARKS.

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

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

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the Idaho state library, and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, and to nonprofit public or private museums or their foundations located within the state of Idaho.

1. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or fifty dollars (\$50.00), whichever is less.

2. In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or five hundred dollars (\$500), whichever is less.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

- (a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.
- (b) It regularly offers education above the twelfth grade.
- (c) It is accredited by the Northwest Association of Schools and Colleges, or by the state board of education.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the Northwest Association of Schools and Colleges, or by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and approved by the state board of education.

Approved March 25, 1999.

CHAPTER 362
(H.B. No. 178, As Amended)

AN ACT

RELATING TO LITERACY EMPHASIS IN PUBLIC SCHOOLS; AMENDING CHAPTER 12, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1207A, IDAHO CODE, TO ADOPT REQUIREMENTS FOR TEACHER PREPARATION PROGRAMS, TO REQUIRE SUCCESSFUL DEMONSTRATION OF ABILITY TO TEACH READING AND TO ADOPT SPECIFIC REQUIREMENTS FOR RENEWAL OF TEACHER CERTIFICATION.

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

SECTION 1. That Chapter 12, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1207A, Idaho Code, and to read as follows:

33-1207A. TEACHER PREPARATION. (1) Higher Education Institutions. The state board shall review teacher preparation programs at the institutions of higher education under their supervision and shall assure that the course offerings and graduation requirements are consistent with the state board approved, research based "Idaho Comprehensive Literacy Plan." To assure the most immediate compliance with this requirement, the board may allocate funds, subject to appropriation, to institutions which require revision of the program.

The state board shall be responsible for the development of a single preservice assessment measure for all kindergarten through grade eight (8) teacher preparation programs. The assessment must include a demonstration of teaching skills and knowledge congruent with current research on best reading practices. In addition the assessment must include how children acquire language; the basic sound structure of English, including phonological and phonemic awareness; phonics and structural analysis; semantics and syntactics; how to select reading textbooks; and how to use diagnostic tools and test data to improve teaching. It shall also include the preservice teacher's knowledge base of reading process: phonological awareness; sound-symbol correspondence (intensive, systematic phonemes); semantics (meaning); syntax (grammar and language patterns); pragmatics (background knowledge and life experience); and comprehension and critical thinking. By September 2002, all teacher candidates shall pass this assessment as part of the graduation requirements from an Idaho teacher preparation program. The state board shall report the number of preservice teachers taking and passing the performance-based reading assessment to the legislature and governor annually. All costs associated with administration of this test shall be borne by the institution which administers the test and shall be shown as a line item in the appropriation request of the institution for state reimbursement.

(2) In-service Programs. Each teacher employed in a classroom for kindergarten through grade eight (8), Title I, or special education and each school administrator of a school which includes kindergarten through grade eight (8), Title I, or special education shall complete

three (3) credits (or forty-five (45) contact hours of in-service training) of a single state approved reading instruction course based on the state approved research based "Idaho Comprehensive Literacy Plan" in order to recertify. Effective September 2000, the affected certificated personnel need only qualify under this requirement once. Courses which qualify for credit shall be approved by the state department of education. These courses shall be a requirement for each renewal of certification for those currently employed in an Idaho school district and shall be included within current requirements for continuing education for renewal. The department shall provide a waiver of this requirement if the applicant successfully completes the reading assessment measure developed for preservice purposes as provided in subsection (1) of this section. The department shall establish a procedure to allow a waiver of this requirement if the applicant teaches in a secondary grade subject which does not directly involve teaching reading or writing.

The board of trustees of every school district shall include in its plan for in-service training, coursework covering reading skills development, including diagnostic tools to review and adjust instruction continuously, and the ability to identify students who need special help in reading. The district plan for in-service training in reading skills shall be submitted to the state department of education for review and approval, in a format specified by the department.

Approved March 25, 1999.

CHAPTER 363
(H.B. No. 323)

AN ACT

RELATING TO LOCAL LAND USE PLANNING; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6515A, IDAHO CODE, TO PROVIDE THAT A COUNTY OR CITY GOVERNING BODY MAY, BY ORDINANCE, CREATE DEVELOPMENT RIGHTS AND ESTABLISH PROCEDURES AUTHORIZING LANDOWNERS TO VOLUNTARILY TRANSFER DEVELOPMENT RIGHTS SUBJECT TO CERTAIN CONDITIONS, TO REQUIRE A MARKET ANALYSIS BEFORE A CITY OR COUNTY DESIGNATES SENDING AND RECEIVING AREAS, TO PROVIDE THAT A CITY OR COUNTY SHALL NOT REQUIRE A PROPERTY OWNER IN A SENDING AREA TO SELL DEVELOPMENT RIGHTS, TO PROVIDE THAT A TRANSFER OF DEVELOPMENT RIGHTS ONCE EXERCISED SHALL BE A RESTRICTION ON THE DEVELOPMENT OF THE PROPERTY IN PERPETUITY UNLESS THE CITY OR COUNTY EXTINGUISHES THE RESTRICTION, TO PROVIDE WHEN AN APPLICATION FOR A PERMIT OR A ZONING DISTRICT BOUNDARY CHANGE MAY NOT BE CONDITIONED ON THE ACQUISITION OF DEVELOPMENT RIGHTS, TO REQUIRE THAT DEVELOPMENT RIGHTS BE EXERCISED WITHIN TEN YEARS OF ACQUISITION UNLESS EXTENDED BY THE CITY OR COUNTY FOR AN ADDITIONAL FIVE-YEAR PERIOD, TO PROVIDE THAT A TRANSFER OF A DEVELOPMENT RIGHT SHALL NOT AFFECT A WATER RIGHT APPURTENANT TO THE PROPERTY FROM WHICH A DEVELOPMENT RIGHT IS TRANSFERRED, TO PROVIDE THAT THE TRANSFER OF A WATER RIGHT SHALL REMAIN SUBJECT TO TITLE 42, IDAHO

CODE, TO PROVIDE THAT ORDINANCES AUTHORIZING A TRANSFER OF DEVELOPMENT RIGHTS SHALL REQUIRE THE CONSENT OF LIENHOLDERS AND PARTIES WITH AN INTEREST OF RECORD IN THE PROPERTY AND THAT A TRANSFER OF DEVELOPMENT RIGHTS WITHOUT SUCH CONSENT IS VOID, TO PROVIDE THAT A TRANSFERRED DEVELOPMENT RIGHT IS AN INTEREST IN REAL PROPERTY AND THAT AN UNEXERCISED DEVELOPMENT RIGHT SHALL NOT BE TAXED AS REAL OR PERSONAL PROPERTY AND TO PROVIDE DEFINITIONS; PROVIDING THAT THE IDAHO ASSOCIATION OF COUNTIES PROVIDE AN ANNUAL REPORT TO THE SENATE LOCAL GOVERNMENT AND TAXATION COMMITTEE AND THE HOUSE LOCAL GOVERNMENT COMMITTEE CONCERNING SYSTEMS FOR THE TRANSFER OF DEVELOPMENT RIGHTS IN COUNTIES THROUGHOUT THE STATE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 65, 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 67-6515A, Idaho Code, and to read as follows:

67-6515A. TRANSFER OF DEVELOPMENT RIGHTS. (1) Any city or county governing body may, by ordinance, create development rights and establish procedures authorizing landowners to voluntarily transfer said development rights subject to:

(a) Such conditions as the governing body shall determine to fulfill the goals of the city or county to preserve open space, protect wildlife habitat and critical areas, and enhance and maintain the rural character of lands with contiguity to agricultural lands suitable for long-range farming and ranching operations; and

(b) Voluntary acceptance by the landowner of the development rights and any land use restrictions conditional to such acceptance.

(2) Before designating sending areas and receiving areas, a city or county shall conduct an analysis of the market in an attempt to assure that areas designated as receiving areas will have the capacity to accommodate the number of development rights expected to be generated from the sending areas.

(3) Ordinances providing for a transfer of development rights shall not require a property owner in a sending area to sell development rights. Once a transfer of development rights has been exercised it shall constitute a restriction on the development of the property in perpetuity, unless the city or county elects to extinguish such restriction pursuant to the provisions of this chapter.

(4) A city or county may not condition an application for a permit to which an applicant is otherwise entitled under existing zoning and subdivision ordinances on the acquisition of development rights. A city or county may not condition an application for a zoning district boundary change which is consistent with the comprehensive plan on the acquisition of development rights. A city or county may not reduce the density of an existing zone and thereafter require an applicant to acquire development rights as a condition of approving a request for a zoning district boundary change which would permit greater density.

(5) A person may not acquire a development right without the intent to exercise that right within a receiving area within ten (10) years of the date of acquisition. Upon a showing of good cause, a city or county may extend the right to exercise the development right for an additional period not to exceed five (5) years. If the development right is not used before the end of the time period herein provided and any extension thereof, the development right will revert to the owner of the property from which it was transferred.

(6) No transfer of a development right, as contemplated herein, shall affect the validity or continued right to use any water right that is appurtenant to the real property from which such development right is transferred. The transfer of a water right shall remain subject to the provisions of title 42, Idaho Code.

(7) (a) Ordinances providing for the transfer of development rights shall provide that no transfer of development rights may occur without the written consent of all lienholders and other parties with an interest of record in the property from which development rights are proposed to be transferred. Transfers of development rights without such consent shall be void.

(b) A development right which is transferred shall be deemed to be an interest in real property and the rights evidenced thereby shall inure to the benefit of the transferee, his heirs, successors and assigns. An unexercised development right shall not be taxed as real or personal property.

(8) For the purposes of this section:

(a) "Development rights" shall mean the rights permitted to a lot, parcel or area of land under a zoning or other ordinance respecting permissible use, area, density, bulk or height of improvements. Development rights may be calculated and allocated in accordance with such factors as area, floor area, floor area ratios, density, height limitations, or any other criteria that will effectively quantify a value for the development right in a reasonable and uniform manner that will carry out the objectives of this section.

(b) "Receiving area" shall mean one (1) or more designated areas of land to which development rights generated from one (1) or more sending areas may be transferred and in which increased development is permitted to occur by reason of such transfer.

(c) "Sending area" shall mean one (1) or more designated areas of land in which development rights may be designated for use in one (1) or more receiving areas.

(d) "Transfer of development rights" shall mean the process by which development rights are transferred from one (1) lot, parcel or area of land in any sending area to another lot, parcel or area of land in one (1) or more receiving areas.

SECTION 2. REPORT TO THE LEGISLATURE. In January 2000, the Idaho Association of Counties shall provide a report to the Senate Local Government and Taxation Committee and the House Local Government Committee concerning systems for the transfer of development rights being proposed for adoption in counties throughout the state. Commencing January 2001, and annually thereafter, the Idaho Association of Counties shall provide a report concerning systems for the transfer of

development rights which have been adopted and those proposed for adoption in counties throughout the state.

SECTION 3. The provisions of Section 1 of this act shall be in full force and effect on and after July 1, 2000.

Approved March 26, 1999.

CHAPTER 364
(S.B. No. 1151)

AN ACT

RELATING TO THE COMPREHENSIVE STATE WATER PLAN; RATIFYING AND APPROVING THE COMPREHENSIVE STATE WATER PLAN FOR THE PAYETTE RIVER BASIN AS ADOPTED BY THE IDAHO WATER RESOURCE BOARD ON FEBRUARY 5, 1999 AND CORRECTING TYPOGRAPHICAL ERRORS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That pursuant to section 42-1734B(6), Idaho Code, the comprehensive state water plan for the Payette River Basin, adopted by resolution of the Idaho Water Resource Board on February 5, 1999, be, and the same is hereby ratified and approved. In accordance with section 42-1734A, Idaho Code, the basin plan includes the protected river reach designations summarized as follows:

- (1) North Fork Payette River, Cabarton Bridge to Rainbow Bridge (9.6 miles) - recreational
- (2) South Fork Payette River, Deadwood River confluence to Big Pine Creek confluence (7.9 miles) - recreational

The following activities are prohibited on these reaches:

- construction or expansion of dams or impoundments;
- construction of hydropower projects;
- construction of water diversion works;
- dredge or placer mining;
- mineral or sand and gravel extraction within the steam stream bed; and
- stream channel alterations.

Exceptions to the above prohibitions include:

- New diversion works shall be limited to pump installations that do not create an obstruction in the river, and are sized to supply water for the standard domestic definition or a capacity sufficient for stock water or developed rest areas, picnic, and campground purposes (not to exceed a diversion rate of 0.04 cubic feet per second).

- Stream channel alterations necessary to maintain and improve existing utilities, roadways, managed stream access facilities, diversion works, and for the maintenance of real (private or public) property.

- (3) North Fork Payette River, Rainbow Bridge to Banks (18.4 miles) - recreational

- (4) South Fork Payette River, Middle Fork confluence to Banks (7.6 miles) - recreational
- (5) Payette River, Banks to Beehive Bend boat access (7.2 miles) - recreational

The following activities are prohibited on these reaches:

- construction or expansion of dams or impoundments;
- construction of hydropower projects;
- construction of water diversion works;
- dredge or placer mining;
- mineral or sand and gravel extraction within the steam stream bed; and
- stream channel alterations.

Exceptions to the above prohibitions include:

-New diversion works shall be limited to pump installations that do not create an obstruction in the river for the following purposes: Irrigation of basin lands; stock water; developed rest areas, picnic and campground areas; and for domestic, commercial, municipal and industrial needs.

-Stream channel alterations necessary to maintain and improve existing utilities, roadways, managed stream access facilities, diversion works, and for the maintenance of real (private and public) property.

- (6) South Fork Payette River, Sawtooth National Recreation Area boundary to Deadwood River confluence (20.3 miles) - recreational
- (7) South Fork Payette River, Big Pine Creek confluence to Middle Fork confluence (16.0 miles) - recreational

The following activities are prohibited on these reaches:

- construction or expansion of dams or impoundments;
- construction of hydropower projects;
- construction of water diversion works;
- dredge or placer mining;
- mineral or sand and gravel extraction within the steam stream bed; and
- stream channel alterations.

Exceptions to the above prohibitions include:

-New diversion works shall be limited to pump installation that do not create an obstruction in the river for the following purposes: Irrigation of basin lands; stock water; developed rest areas, picnic and campground areas; and for domestic, commercial, municipal and industrial needs.

-Stream channel alterations necessary to maintain and improve existing utilities, roadways, managed stream access facilities, diversion works, and for the maintenance of real (private and public) property.

-Recreational dredge mining is permitted as regulated by the Idaho Department of Water Resources and Idaho Department of Lands.

- (8) North Fork Payette Headwaters (including Cloochman and Trail Creeks) to Payette Lake Inlet (23.6 miles) - recreational
- The following activities are prohibited on this reach:

- construction or expansion of dams or impoundments;
- construction of hydropower projects;
- construction of water diversion works;
- dredge or placer mining;
- mineral or sand and gravel extraction within the stream stream bed; and
- stream channel alterations.

Exceptions to the above prohibitions include:

- Stream channel alterations necessary to maintain and improve existing utilities, roadways, managed stream access facilities, diversion works, and for the maintenance of real (private and public) property.
- Alterations of the stream channel for installation of fisheries enhancement structures and other activities necessary for fishery management.
- This designation is not intended to restrict current and future operations at Upper Payette Lake by the Lake Reservoir Company, including enlargement of the dam or lake.

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 26, 1999.

CHAPTER 365
(S.B. No. 1171)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE CORRECT REFERENCES AND TO CLARIFY DEPOSIT OF REVENUES FROM SPECIAL LICENSE PLATE PROGRAMS; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-419A, IDAHO CODE, TO ESTABLISH AN IDAHO SAWTOOTH NATIONAL RECREATION AREA LICENSE PLATE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. 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 high-

way 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, 49-419, 49-419A and 49-420, 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). For special plates issued pursuant to section 49-418A, Idaho Code, the initial program fee and the annual renewal fee shall be fifty dollars (\$50.00). 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~~ as specified by law for each program.

SECTION 2. 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 49-419A, Idaho Code, and to read as follows:

49-419A. IDAHO SAWTOOTH NATIONAL RECREATION AREA PLATES. (1) On

and after January 1, 2000, 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 Idaho sawtooth national recreation area license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over sixteen thousand (16,000) pounds. Availability of Idaho sawtooth national recreation area plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fees required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of the plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. 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 park and recreation fund established in section 67-4225, Idaho Code, for use in the maintenance of parks and facilities. This fee shall be treated as a contribution to the outdoor recreation 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.

(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 sawtooth national recreation area license plate design shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. That portion of the design which features the Idaho sawtooth national recreation area shall be acceptable to the sawtooth society and shall be approved by the department utilizing a numbering system as determined by the department. Initial costs of the plate program, including the cost of the plate design, shall be paid by the sawtooth society.

(5) Sample Idaho sawtooth national recreation area plates may be purchased from the department 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 by the state treasurer in the park and recreation fund for use in the maintenance of parks and facilities. No additional fee shall be charged for personalizing sample plates.

SECTION 3. This act shall be in full force and effect on and after January 1, 2000.

Approved March 26, 1999.

CHAPTER 366
(S.B. No. 1083)

AN ACT

RELATING TO EMPLOYEE ASSISTANCE PROGRAMS; AMENDING THE HEADING FOR CHAPTER 2, TITLE 44, IDAHO CODE; AND AMENDING CHAPTER 2, TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 44-202, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROTECT THE CONFIDENTIALITY OF COMMUNICATIONS BETWEEN PROVIDERS AND PARTICIPANTS IN AN EMPLOYEE ASSISTANCE PROGRAM, TO LIMIT THE LIABILITY OF THE EMPLOYER ON THE BASIS OF A COMMUNICATION BETWEEN A PARTICIPANT AND A PROVIDER, TO PROHIBIT THE WAIVER OF CONFIDENTIALITY AS A CONDITION OF PARTICIPATING IN AN EMPLOYEE ASSISTANCE PROGRAM AND TO PROVIDE AN EXCEPTION.

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

SECTION 1. That the heading for Chapter 2, Title 44, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 2
EMPLOYER DUTIES
EMPLOYEE ASSISTANCE PROGRAMS

SECTION 2. That Chapter 2, Title 44, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 44-202, Idaho Code, and to read as follows:

44-202. EMPLOYEE ASSISTANCE PROGRAMS. (1) As used in this section:

(a) "Provider" means any professional licensed under the laws of this state whose communications with clients or patients are subject to any requirement of confidentiality or privilege pursuant to the laws, regulations, or rules of court of this state and who provides professional services to employee assistance program participants.

(b) "Participants" means employees eligible to participate in an employee assistance program and all others eligible to participate in an employee assistance program by virtue of their relationship to an employee.

(c) "Employee assistance program" means a program established by an employer for the benefit and convenience of its employees pursuant to which participants access the professional services of one (1) or more providers regardless of who is responsible for the payment of any fees charged for such services, and regardless of the type of employment or business relationship, if any, that the employer has with the providers involved.

(2) No provider shall disclose to an employer, and no employer shall be entitled to obtain disclosure of, a communication from a participant that is privileged from disclosure, or required to be kept confidential by a provider, under the laws, regulations or rules of court of this state. No employer shall be held liable in any degree on

the basis of any communication between a participant and a provider unless the employer actually knew, or should have known, of the information communicated before the alleged breach of duty or harm occurred. The nature of the employment or business relationship between the employer and the provider shall not be a consideration in determining whether an employer actually knew of the information communicated between a participant and a provider.

(3) No participant shall be required to waive the confidential or privileged nature of any communication as a condition of participating in an employee assistance program, but this subsection shall not apply to an employer's referral of an employee to a provider which is a condition of the employee's continued employment.

Approved March 26, 1999.

CHAPTER 367
(S.B. No. 1128)

AN ACT

RELATING TO ELECTRICIANS; AMENDING SECTION 54-1002, IDAHO CODE, TO PROVIDE FOR LICENSURE OF MASTER JOURNEYMAN ELECTRICIANS, SPECIALTY ELECTRICIANS, SPECIALTY ELECTRICAL CONTRACTORS AND FOR REGISTRATION OF APPRENTICE ELECTRICIANS; AMENDING SECTION 54-1003, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF LICENSES OR REGISTRATIONS FOR SPECIALTY ELECTRICIANS, SPECIALTY ELECTRICAL CONTRACTORS, SPECIALTY ELECTRICAL TRAINEES OR APPRENTICE ELECTRICIANS; AMENDING SECTION 54-1003A, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 54-1005, IDAHO CODE, TO PROVIDE FOR RULES, EXAMINATIONS, LICENSURE, INSPECTIONS, INSPECTION TAGS AND FEES FOR ELECTRICAL CONTRACTORS, JOURNEYMAN ELECTRICIANS, MASTER JOURNEYMAN ELECTRICIANS, SPECIALTY ELECTRICIANS, SPECIALTY ELECTRICAL CONTRACTORS, SPECIALTY ELECTRICAL TRAINEES AND APPRENTICE ELECTRICIANS; AMENDING SECTION 54-1006, IDAHO CODE, TO PROVIDE RULES FOR EXAMINATION AND LICENSING; AMENDING SECTION 54-1007, IDAHO CODE, TO PROVIDE FOR LICENSURE AND RECIPROCITY FOR SPECIALTY ELECTRICIANS OR SPECIALTY ELECTRICAL CONTRACTORS; AMENDING SECTION 54-1010, IDAHO CODE, TO PROVIDE FOR REGISTRATION OF SPECIALTY ELECTRICAL TRAINEES WITH THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 54-1014, IDAHO CODE, TO PROVIDE A SPECIALTY TRAINEE REGISTRATION FEE; AND AMENDING SECTION 54-1017, IDAHO CODE, TO PROVIDE MISDEMEANOR PENALTIES FOR VIOLATIONS BY MASTER JOURNEYMAN ELECTRICIANS, SPECIALTY ELECTRICIANS, SPECIALTY ELECTRICAL CONTRACTORS, SPECIALTY ELECTRICAL TRAINEES AND APPRENTICE ELECTRICIANS.

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

SECTION 1. That Section 54-1002, Idaho Code, be, and the same is hereby amended to read as follows:

54-1002. LICENSE ESSENTIAL TO ENGAGE IN BUSINESS -- LICENSURE AUTHORITY EXCLUSIVE TO THE STATE. (1) It shall be unlawful for any

person, partnership, company, firm, association or corporation, to act, or attempt to act, as an electrical contractor or special electrical contractor in this state until such person, partnership, company, firm, association or corporation, shall have received a license as an electrical contractor, as herein defined, issued pursuant to the provisions of this chapter by the administrator of the division of building safety.

(2) It shall be unlawful for any person to act as a journeyman electrician in this state until such person shall have received a license as a journeyman electrician, as herein defined, issued pursuant to the provisions of this act, by the administrator of the division of building safety, provided, however, that any person who has been issued a master journeyman electrician's license pursuant to this chapter may act as a journeyman electrician.

(3) It shall be unlawful for any person to act as a specialty electrician in this state until such person shall have received a license as a specialty electrician, as herein defined, issued pursuant to the provisions of this act, by the administrator of the division of building safety, provided however, that any person who has been issued a master journeyman electrician's license or a journeyman electrician's license pursuant to this act may act as a specialty electrician.

(4) Licensure of electrical contractors, and journeyman electricians, master journeyman electricians, specialty electricians, specialty electrical contractors and registration of apprentice electricians shall be within the exclusive jurisdiction of the state pursuant to this chapter and no local jurisdiction shall have the authority to require additional licensure or to issue licenses to persons licensed under this chapter which are inconsistent with the provisions of this chapter or rules promulgated by the division of building safety. The state shall investigate all local infractions and state violations of this chapter and prosecute the same. The local jurisdictions will assist the state by requesting investigations within their jurisdictions. Nothing in this chapter shall restrict a city or county from imposing stricter public safety rules, notwithstanding any provision of Idaho Code.

SECTION 2. That Section 54-1003, Idaho Code, be, and the same is hereby amended to read as follows:

54-1003. ADMINISTRATOR AUTHORIZED TO ISSUE LICENSE. Only the administrator of the division of building safety of the state of Idaho is authorized and empowered to conduct examinations and to pass upon the qualifications of applicants, and to grant and issue licenses or registrations to such applicants as are found to be qualified to engage in the trade, business or calling of a journeyman electrician, or electrical contractor, or master journeyman electrician, specialty electrician, specialty electrical contractor, specialty electrical trainee or apprentice electrician in the manner and upon the terms and conditions hereinafter provided. No licenses granted hereunder shall be transferable. Licenses shall be issued upon the condition that the holder thereof shall comply with all provisions of this chapter.

SECTION 3. That Section 54-1003A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1003A. DEFINITIONS. (1) Electrical Contractor. Except as provided in section 54-1016, Idaho Code, any person, partnership, company, firm, association or corporation engaging in, conducting, or carrying on the business of installing wires or equipment to carry electric current or installing apparatus to be operated by such current, or entering into agreements to install such wires, equipment or apparatus, shall for the purpose of this act be known as an electrical contractor.

(2) Journeyman Electrician. Except as provided in section 54-1016, Idaho Code, and part subsections (3), and part (4), (5) and (6) of this section, any person who personally performs or supervises the actual physical work of installing electric wiring or equipment to convey electric current, or apparatus to be operated by such current, shall, for the purpose of this act, be known as a journeyman electrician.

(3) Apprentice Electrician. Any person who, for the purpose of learning the trade of journeyman electrician, engages in the installation of electric wiring, equipment, or apparatus while under the constant on-the-job supervision of a qualified journeyman electrician shall, for the purpose of this act, be known as an apprentice electrician.

(4) Maintenance Electrician. Any person who is regularly employed to service, maintain or repair electrical apparatus, or to make minor repairs or alterations to existing electrical wires or equipment located on his employer's premises shall, for the purpose of this act, be known as a maintenance electrician.

(5) Master Journeyman Electrician. A person who has the necessary qualifications, training, experience and technical knowledge to plan, layout or design the installation of electrical wiring or equipment, or to supervise such planning, layout, or design, and who performs or supervises such planning, layout or design, shall, for the purpose of this act, be known as a master journeyman electrician.

(6) Specialty Electrician. 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 within categories adopted by the board. Specialty electricians shall perform work only within the scope of the specialty category for which the person is licensed.

(7) Specialty Electrical Contractor. Except as provided in section 54-1016, Idaho Code, any person, partnership, company, firm, association or corporation engaging in, conducting or carrying on the business of installing, altering or repairing special classes of electrical wiring, apparatus or equipment within categories adopted by the board or entering into agreements to perform such specialty work, shall for the purpose of this act be known as a specialty electrical contractor. Specialty electrical contractors shall perform work only within the scope of the specialty category for which the contractor is licensed.

(8) Specialty Electrical Trainee. Any person who, for the purpose

of learning the trade of a specialty electrician, engages in the installation of electrical wiring, equipment or apparatus while under the constant on-the-job supervision of a qualified specialty electrician shall, for the purpose of this act, be known as a specialty electrical trainee.

SECTION 4. That Section 54-1005, Idaho Code, be, and the same is hereby amended to read as follows:

54-1005. RULES -- INSPECTIONS -- INSPECTION TAGS AND FEES. (1) The administrator of the division of building safety is hereby authorized and directed to enforce rules consistent with this act for the administration of this act and to effectuate the purposes thereof, and for the examination and licensing of electrical contractors, and the examination and licensing of journeyman electricians, and the examination and licensing of master journeyman electricians, specialty electricians, specialty electrical contractors, specialty electrical trainees and apprentice electricians, and to set by rule the fees for ~~master--journeyman--electrician~~ all such licenses, and to make inspections of electrical installations referred to in section 54-1001, Idaho Code, and to issue inspection tags covering such installations, and to collect the fees established therefor.

(2) Individuals, firms, cooperatives, corporations, or municipalities selling electricity, hereinafter known as the power supplier, shall not connect with or energize any electrical installation, coming under the provisions of this act, unless the owner or a licensed electrical contractor has delivered to the power supplier an inspection tag, issued by the administrator, covering the installation to be energized. Immediately after an installation has been energized, the power supplier shall deliver to the administrator or his authorized agent, the inspection tag covering such installation.

(3) It shall be unlawful for any person, partnership, company, firm, association or corporation other than a power supplier, to energize any electrical installation coming under the provisions of this act unless an application for an electrical inspection tag, covering such installation, together with the inspection fee herein provided, has been forwarded to the administrator.

SECTION 5. That Section 54-1006, Idaho Code, be, and the same is hereby amended to read as follows:

54-1006. IDAHO ELECTRICAL BOARD. (1) The Idaho electrical board, hereinafter known as the board, is hereby created and made a part of the division of building safety. It shall be the responsibility and duty of the administrator of the division of building safety to administer and enforce the provisions of this act, to serve as secretary to the Idaho electrical board, and to appoint the chief electrical inspector.

(2) The board shall consist of seven (7) members to be appointed by the governor with power of removal for cause. Board members shall be appointed for a term of four (4) years. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(3) All members of the board shall be citizens of the United States, residents of this state for not less than two (2) years and shall be qualified by experience, knowledge and integrity in formulating rules for examinations, in passing on the fitness and qualifications of applicants for electrical contractor and journeyman electrician licenses and in establishing standards for electrical products to be used in electrical installations coming under the provisions of this act.

(4) The members of the board shall, at their first regular meeting following the effective date of this act and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. In the event the chairman is not present at any board meeting, the board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the board shall constitute a quorum.

(5) The board is authorized and directed to prescribe and amend rules consistent with this act for the administration of this chapter and to effectuate the purpose thereof, and for the examination and licensing of electrical contractors, and the examination and licensing of journeyman electricians, master journeyman electricians, specialty electricians, specialty electrical contractors, specialty electrical trainees and apprentice electricians. The board shall also establish the classifications for specialty electrician and specialty electrical contractor licensing and the fees to be charged for permits and inspections of electrical systems.

(6) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509(g), Idaho Code.

SECTION 6. That Section 54-1007, Idaho Code, be, and the same is hereby amended to read as follows:

54-1007. ISSUANCE OF LICENSES -- RECIPROCITY. (1) The administrator shall issue licenses to such persons as have by examination shown themselves to be fit, competent and qualified to engage in the trade of journeyman electrician, specialty electrician or master journeyman electrician, and to such persons, firms, partnerships, associations or corporations as have shown themselves to be fit, competent and qualified to engage in the business of electrical contracting or specialty electrical contracting. Any person who has worked as a journeyman electrician or as an apprentice electrician, as herein defined, for a period of not less than four (4) years, shall be considered as qualified to apply for a journeyman electrician's license in this state, provided that for each such year he is claiming to have worked as an apprentice electrician, the apprentice registered with the division of building safety as an apprentice, paid an apprentice registration fee, and submitted with his annual application for apprentice registration verification of employment and hours worked. The electrical board may, by rule, fix the apprentice registration fee, in an amount not to exceed the costs of issuing apprentice registration certificates and enforcing the apprentice registration provisions of this act, and may also by rule establish requirements relative to the manner of verification of employment and hours worked. Before such experience as an

apprentice may be considered as qualifying the apprentice to take the journeyman's examination, the apprentice must also complete the required related instruction for electrical apprentices as approved by the Idaho state board for vocational education. Any person who has worked in this state for a period of not less than two (2) years as a journeyman electrician shall be considered as qualified to apply for a master journeyman electrician's license in this state.

(2) To the extent that other states which provide for the licensing of electricians provide for similar action, the administrator, on the recommendation of the Idaho electrical board, may grant licenses to electricians licensed by such other states, upon payment by the applicant of the required fee and upon furnishing proof to the board that the applicant has qualifications at least equal to those provided herein for applicants for written examinations. Applicants who qualify for a license under this subsection are not required to take a written examination.

SECTION 7. That Section 54-1010, Idaho Code, be, and the same is hereby amended to read as follows:

54-1010. INSTALLATIONS BY ELECTRICAL CONTRACTOR PERFORMED BY LICENSED JOURNEYMAN -- PRIOR CERTIFICATE HOLDERS ENTITLED TO LICENSE -- LIST OF ELECTRICIANS IN CONTRACTOR'S EMPLOY. (1) On and after July 1, 1961, any electrical contractor who works as a journeyman electrician, as herein defined, shall be required to have a journeyman electrician's license issued under the provisions of this act. All installations of electrical wiring, equipment or apparatus made by an electrical contractor shall be done by or under the direct supervision of a licensed journeyman electrician.

(2) The individual owner of an electrical contracting business may act as his own journeyman electrician provided that he has complied with the provisions of section 54-1002, Idaho Code, pertaining to journeyman electrician. Each electrical contractor in this state shall, upon request of the administrator, or his authorized agent, furnish a list of journeyman electricians in said electrical contractor's employ.

(3) From and after July 1, 1986, any individual working as an apprentice electrician, as defined in this act, must be registered with the division of building safety, as an apprentice electrician, as provided in section 54-1007, Idaho Code; and it shall be unlawful for an individual to work as an apprentice electrician without possessing a current apprentice registration certificate.

(4) On and after July 1, 1999, any individual working as a specialty electrical trainee, as defined in this chapter, must be registered with the division of building safety, as a specialty electrical trainee. It shall be unlawful for an individual to work as a specialty electrical trainee without possessing a current registration certificate.

SECTION 8. That Section 54-1014, Idaho Code, be, and the same is hereby amended to read as follows:

54-1014. FEES. The following fees shall be charged by the admin-

istrator of the division of building safety:

Electrical contractor's license	\$125.00
Renewal of electrical contractor's license	100.00
Journeyman electrician's license	25.00
Renewal of journeyman electrician's license	15.00
Application for license	15.00
Revival of electrical contractor's license	125.00
Revival of journeyman electrician's license	25.00
<u>Apprentice/specialty trainee</u> registration and working license	10.00
Specialty electrician's license	25.00
Specialty electrician's license renewal	15.00
Specialty electrician's license revival	25.00
Specialty contractor's license	125.00
Specialty contractor's license renewal	100.00
Specialty contractor's license revival	125.00
Master journeyman electrician's license	35.00
Master journeyman electrician's license renewal	25.00
Master journeyman electrician's license revival	35.00

SECTION 9. That Section 54-1017, Idaho Code, be, and the same is hereby amended to read as follows:

54-1017. VIOLATIONS OF ACT A MISDEMEANOR. Any person, partnership, company, firm, association or corporation who shall engage in the trade, business or calling of an electrical contractor, or journeyman electrician, master journeyman electrician, specialty electrician, specialty electrical contractor, specialty electrical trainee or apprentice electrician without a license or required registration as provided for by this act, or who shall violate any of the provisions of this act, or the rules of the Idaho electrical board or of the administrator of the division of building safety herein provided for, or who shall refuse to perform any duty lawfully enjoined upon him by the administrator within the prescribed time; or who shall fail, neglect, or refuse to obey any lawful order given or made by the administrator shall be guilty of a misdemeanor. Each day of such violation shall constitute a separate offense.

Approved March 26, 1999.

CHAPTER 368
(S.B. No. 1165)

AN ACT

RELATING TO NONRESIDENT OPERATORS OF SNOWMOBILES IN IDAHO; AMENDING SECTION 67-7104, IDAHO CODE, TO PROVIDE THAT A SNOWMOBILE OPERATED BY A NONRESIDENT SHALL DISPLAY AN IDAHO CERTIFICATE OF NUMBER OR THE NONRESIDENT SHALL PURCHASE A NONRESIDENT SNOWMOBILE USER CERTIFICATE AND TO DEFINE "NONRESIDENT."

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. (1) 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.

(2) Notwithstanding the provisions of subsection (1) of this section, all nonresident operators of snowmobiles used in Idaho shall comply with one (1) of the following requirements:

(a) The snowmobile shall be registered in Idaho and the certificate of number shall be displayed in the manner provided in section 67-7103, Idaho Code; or

(b) The nonresident shall obtain a nonresident snowmobile user certificate upon payment of twenty dollars (\$20.00) and the certificate of number shall be displayed in the same manner as provided in section 67-7103, Idaho Code. Such certificates shall be valid beginning November 1 through October 31 of the following year. Issuance and administration of nonresident snowmobile user certificates shall be conducted in the same manner as provided in section 67-7103, Idaho Code, for numbering of snowmobiles.

(3) For purposes of this section, "nonresident" shall be as defined in section 36-202, Idaho Code.

Approved March 26, 1999.

CHAPTER 369
(S.B. No. 1191)

AN ACT

RELATING TO SCHOLARSHIPS; AMENDING SECTION 33-4302A, IDAHO CODE, TO PROVIDE THAT DEPENDENTS OF FULL-TIME PEACE OFFICERS OR FIREFIGHTERS KILLED OR DISABLED IN THE LINE OF DUTY SHALL BE ELIGIBLE TO ATTEND ANY PUBLIC INSTITUTION OF HIGHER EDUCATION OR PUBLIC VOCATIONAL-TECHNICAL COLLEGE WITHOUT PAYMENT OF TUITION, FEES, HOUSING, MEALS, BOOKS, EQUIPMENT AND SUPPLIES FOR A SPECIFIED PERIOD OF TIME, TO PROVIDE FINANCIAL LIMITS AND TO PROVIDE FOR APPLICATION FOR ELIGIBILITY.

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

SECTION 1. That Section 33-4302A, Idaho Code, be, and the same is hereby amended to read as follows:

33-4302A. PEACE OFFICER/FIREFIGHTER DEPENDENT SCHOLARSHIPS -- STATE AID. (1) Any dependent of a full-time peace officer or firefighter employed in Idaho, which officer or firefighter is a resident

of the state of Idaho and which officer or firefighter is killed or disabled in the line of duty shall be admitted to attend any public institution of higher education or public vocational-technical school college within the state of Idaho without the necessity of paying tuition and fees ~~in an amount not to exceed eight hundred dollars (\$800)~~ and therefor. Said dependents shall be provided by the institution or college with books, equipment and supplies necessary for pursuit of their the dependent's chosen program of enrollment not to exceed three the actual cost therefor, or five hundred dollars (\$3500), whichever is less, per quarter, semester, intensified semester, or like education period. Said dependent shall be provided with the institution or college's published normal on-campus residential facility housing and meals program for each month the dependent is enrolled full time under this statute and continues to actually reside in such on-campus residential facility. Provided however, that the educational benefits provided for in this section shall not exceed a total of thirty-six (36) months or four (4) nine-month periods.

(2) The dependent shall be required to meet the educational qualifications as such institution of higher education or vocational-technical school college as established for other prospective students of this state. Application for eligibility under this section shall be made to the state board of education and board of regents of the University of Idaho. The board shall verify the eligibility of the dependent and communicate such eligibility to the dependent and the affected institution or college.

(3) Affected institutions and colleges shall, in their preparation of future budgets, include therein costs resulting from such tuition, fees, housing, meals, books, equipment and supplies for reimbursement thereof from appropriation of state funds.

For the purposes of this section, a peace officer or firefighter, employed in Idaho, is considered disabled if he or she is unable to perform with reasonable continuity the material duties of any gainful occupation for which he or she is reasonably fitted by education, training and experience.

Approved March 26, 1999.

CHAPTER 370
(S.B. No. 1228)

AN ACT

RELATING TO THE PERSONNEL COMMISSION; AMENDING SECTION 67-5301, IDAHO CODE, TO PROVIDE FOR THE ESTABLISHMENT OF A DIVISION OF HUMAN RESOURCES IN THE OFFICE OF THE GOVERNOR AND TO REMOVE THE ENTITY FROM THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTION 67-5302, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5304, IDAHO CODE, TO DELETE ARCHAIC LANGUAGE AND TO PROVIDE A REFERENCE TO THE DIVISION OF HUMAN RESOURCES; AMENDING SECTION 67-5305, IDAHO CODE, TO DELETE ARCHAIC LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5306, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SEC-

TION 67-5307, IDAHO CODE, TO PROVIDE FOR CREATION OF THE PERSONNEL COMMISSION IN THE OFFICE OF THE GOVERNOR AND TO PROVIDE FOR AN APPEAL BY A DEPARTMENT AGGRIEVED BY ANY ACTION OR INACTION OF THE DIVISION OF HUMAN RESOURCES; AMENDING SECTION 67-5308, IDAHO CODE, TO PROVIDE AUTHORITY AND DUTIES OF THE DIVISION OF HUMAN RESOURCES AND TO PROVIDE FOR APPOINTMENT OF AN ADMINISTRATOR OF THE DIVISION SUBJECT TO CONFIRMATION BY THE STATE SENATE; AMENDING SECTION 67-5309, IDAHO CODE, TO PROVIDE FOR RULES OF THE DIVISION OF HUMAN RESOURCES; AMENDING SECTION 67-5309B, IDAHO CODE, TO PROVIDE THE ESTABLISHMENT OF SALARIES BY THE ADMINISTRATOR OF THE DIVISION OF HUMAN RESOURCES; AMENDING SECTION 67-5309C, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO CORRECT A CODIFIER'S ERROR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5310, IDAHO CODE, TO PROVIDE SERVICE TO OTHER POLITICAL SUBDIVISIONS BY THE ADMINISTRATOR AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-5314, IDAHO CODE, TO CREATE THE DIVISION OF HUMAN RESOURCES FUND IN THE STATE TREASURY; AMENDING SECTION 67-5315, IDAHO CODE, TO PROVIDE DUTIES TO THE ADMINISTRATOR REGARDING ESTABLISHMENT AND ADOPTION OF EMPLOYEE PROBLEM SOLVING AND DUE PROCESS PROCEDURES; AMENDING SECTION 67-5316, IDAHO CODE, TO REVISE THE APPEAL PROCEDURE; AMENDING SECTION 67-5317, IDAHO CODE, TO CLARIFY THE PETITION FOR REVIEW PROCEDURE; AMENDING SECTION 67-5333, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 59-904, IDAHO CODE, TO ADD THE ADMINISTRATOR OF THE DIVISION OF HUMAN RESOURCES TO THE LIST OF STATE OFFICES; AMENDING SECTION 67-429, IDAHO CODE, TO PROVIDE THAT THE LEGISLATIVE COUNCIL SHALL REVIEW AND MAKE RECOMMENDATIONS TO THE ADMINISTRATOR OF THE DIVISION OF HUMAN RESOURCES ON ALL ASPECTS OF THE STATE PERSONNEL SYSTEM, INCLUDING POLICIES, WAGES AND SALARIES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-1911, IDAHO CODE, TO PROVIDE REFERENCE TO THE ADMINISTRATOR OF THE DIVISION OF HUMAN RESOURCES AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 67-4126, IDAHO CODE, TO PROVIDE REFERENCE TO THE ADMINISTRATOR OF THE DIVISION OF HUMAN RESOURCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-4113, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE; AMENDING SECTION 36-106, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 36-202, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 57-727, IDAHO CODE, TO PROVIDE A REFERENCE TO THE ADMINISTRATOR OF THE DIVISION OF HUMAN RESOURCES; AMENDING SECTION 59-1303, IDAHO CODE, TO PROVIDE THAT AFTER JULY 1, 1999, A REQUIREMENT FOR POST CERTIFICATION FOR CLASSIFIED STATE EMPLOYEES MAY BE MADE ONLY BY THE ADMINISTRATOR OF THE DIVISION OF HUMAN RESOURCES; AND AMENDING SECTION 59-1603, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

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

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

67-5301. ESTABLISHMENT OF ~~PERSONNEL COMMISSION~~ DIVISION OF HUMAN RESOURCES AND DECLARATION OF POLICY. There is hereby established the

~~Idaho personnel commission, division of human resources in the department of administration office of the governor, which is authorized and directed to administer a personnel system, including the provision of personal and professional training, for classified Idaho employees. The commission shall not be subject to the administrative control of the director of the department of administration.~~ The purpose of said personnel system is to provide a means whereby classified employees of the state of Idaho shall be examined, selected, retained and promoted on the basis of merit and their performance of duties, thus effecting economy and efficiency in the administration of state government. The legislature declares that, in its considered judgment, the public good and the general welfare of the citizens of this state require enactment of this measure, under the powers of the state.

SECTION 2. That Section 67-5302, Idaho Code, be, and the same is hereby amended to read as follows:

67-5302. DEFINITIONS. As used in this chapter, and other applicable sections of the Idaho Code, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context. Such terms and their definitions are:

(1) "Administrative employee" means any person, nonclassified or classified appointed to a position which meets the following criteria:

1. (a) Responsible office or nonmanual work directly related to the management policies of a department or section; or
- (b) Responsible work that is directly related to academic instruction or training carried on in the administration of a school system or educational establishment; and

2. The employee must customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures. The employee must have the authority to make important decisions; and

3. The employee must:

- (a) Regularly assist a bona fide executive or administrative employee; or
- (b) Perform work under general supervision along specialized or technical lines requiring special training, experience or knowledge; or
- (c) Execute under only general supervision special assignments; and

4. The employee is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by section 67-5309C, Idaho Code.

5. Final designation of a classified position as "administrative" within this definition shall be made by the ~~Idaho personnel commission~~ administrator of the division of human resources.

(2) "Administrator" means the administrator of the division of human resources in the governor's office.

(3) "Appointing authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to make appointments to or employ personnel in any depart-

ment.

(34) "Class" means a group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill, and other characteristics, that the same title, the same tests of fitness and the same schedule of compensation may be applied to each position in the group.

(45) "Classified officer or employee" means any person appointed to or holding a position in any department of the state of Idaho which position is subject to the provisions of the merit examination, selection, retention, promotion and dismissal requirements of chapter 53, title 67, Idaho Code.

(56) "Commission" means the Idaho personnel commission.

(67) "Compensatory time" means approved time off from duty provided in compensation for overtime hours worked.

(78) "Department" means any department, agency, institution or office of the state of Idaho.

(89) "Disabled veteran" means an individual who has served on military duty in the armed forces of the United States during any period of war recognized by the United States department of veterans affairs for the purposes of awarding federal veterans¹ benefits as may be defined in title 38, U.S. code, chapter 1, section 101(11), or during any other conflict recognized by the award of a campaign or service medal of the United States; and has been separated therefrom under honorable conditions; and has established the present existence of a service-connected disability; and is receiving compensation, disability retirement benefits, or pension under a public statute as administered by the department of veterans affairs or a military department.

(910) "Eligible" means a person who has been determined to be qualified for a classified position and whose name has been placed on the register of eligibles.

(101) "Executive employee" means any person, nonclassified or classified, appointed to a position equivalent to a bureau chief or above as provided in section 67-2402, Idaho Code, or any employee meeting the following criteria:

1. An individual whose primary duty is management of a department, division or section; and
2. Who customarily and regularly directs the work of at least two (2) or more other employees therein; and
3. Who has the authority to hire and fire, or to recommend hiring and firing; or whose recommendation on these and other actions affecting employees is given particular weight; and
4. Who customarily and regularly exercises discretionary powers; and
5. Who is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by section 67-5309C, Idaho Code.
6. Final designation of a classified position as "executive" in this definition shall be made by the ~~Idaho--personnel--commission~~ administrator.

(112) "Exempt employee" means any employee, classified or nonclassified, who is determined to be an executive, professional or adminis-

trative employee as defined herein, or who qualifies for any other exemption from cash compensation for overtime under applicable federal law. Final designation of a classified position as exempt shall be made by the Idaho-personnel-commission administrator.

(123) "Full-time employee" means any employee working a forty (40) hour work week.

(134) "Holiday" means the following:

January 1 (New Year's Day);

Third Monday in January (Martin Luther King, Jr.-Idaho Human Rights Day);

Third Monday in February (Washington's Birthday);

Last Monday in May (Decoration Day);

July 4 (Independence Day);

First Monday in September (Labor Day);

Second Monday in October (Columbus Day);

November 11 (Veterans Day);

Fourth Thursday in November (Thanksgiving);

December 25 (Christmas).

In addition, the term "holiday" shall mean any day so designated by the President of the United States or the governor of this state for a public fast, thanksgiving or holiday.

In the event that a holiday occurs on a Saturday, the preceding Friday shall be a holiday, and if the holiday falls on a Sunday, the following Monday shall be a holiday.

A holiday is a day of exemption from work granted to employees during which said employees shall be compensated as if they actually worked.

(145) "Hours worked" means those hours actually spent in the performance of the employee's job and shall not include holidays, vacation or sick leave or other approved leave of absence.

(156) "Nonclassified employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is exempted from the provisions of chapter 53, title 67, Idaho Code, as provided for in section 67-5303, Idaho Code.

(167) "Normal work week" means any forty (40) hours worked during a particular one hundred and sixty-eight (168) hour period as previously established by the employee's appointing authority.

(178) "Open competitive examination" means an examination which may be taken by qualified applicants to compete on an equal basis for listing on the register of eligibles.

(189) "Overtime work" means time worked on holidays and time worked in excess of forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, except that in the case of those employees engaged in law enforcement, correctional and fire protection activities characterized by irregular shift work schedules, time worked in excess of one hundred sixty (160) hours in a period of twenty-eight (28) consecutive days shall constitute overtime work within the meaning of this chapter.

(1920) "Participating department" means any department of the state of Idaho which employs persons in classified positions subject to the merit examination, selection, retention, promotion and dismissal requirements of this chapter.

(201) "Part-time employee" means any employee whose usually sched-

uled work is less than forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours.

(212) "Personnel system" means the procedure for administering employees in accordance with this chapter.

(223) "Political office" means a public office for which partisan politics is a basis for nomination, election or appointment.

(234) "Political organization" means a party which sponsors candidates for election to political office.

(245) "Position" means a group of duties and responsibilities legally assigned or delegated by one (1) or more appointing authorities and requiring the employment of one (1) person.

(256) "Professional employee" means any person, nonclassified or classified, appointed to a position which meets the following criteria:

1. The employee's primary duty must be either:
 - (a) Work requiring knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study; or
 - (b) Work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on his invention, imagination, or talent; or
 - (c) Work as a teacher certified or recognized as such in a school system or educational institution by which he is employed; and
2. The employee must consistently exercise discretion and judgment; and
3. The employee must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and
4. The employee is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established in section 67-5309C, Idaho Code.
5. Final designation of a classified position as "professional" within this definition shall be made by the ~~Idaho--personnel--commission~~ administrator.

(267) "Provisional appointment" means appointment to a classified position pending the establishment of a register for such position and employment shall not be continued in this status longer than thirty (30) days after establishment of a register.

(278) "Qualifying examination" means an examination or evaluation given to a selected person to determine eligibility for reclassification or appointment to a position in a classification.

(289) "Register" means a list of names of persons who have been determined to be eligible for employment in a classified position as determined on the basis of examination and merit factors as established by the commission administrator.

(2930) "Seasonal appointment" means an appointment to a position which is permanent in nature, but which has intermittent work periods throughout the year.

(301) "Service rating" means a recorded evaluation of work performance and promotional potential of an employee by his supervisor.

(312) "Temporary appointment" means appointment to a position which is not permanent in nature, and in which employment will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period. No person holding a temporary appointment may work in excess of one thousand three hundred eighty-five (1,385) hours during a twelve (12) month period of time for any one (1) department, except upon petition by the appointing authority of the department of lands that demonstrates good cause, the ~~director of the personnel commission~~ administrator of the division of human resources may extend the one thousand three hundred eighty-five (1,385) hour limit for employees of the department who are required to perform fire suppression activities.

(323) "Vacation leave" means a period of exemption from work granted to employees during which time said employees shall be compensated. The term shall not include compensatory time for overtime work.

(334) "Veteran" means any person who has served in the active service of the armed forces of the United States during any period of war recognized by the United States department of veterans affairs for the purpose of awarding federal veterans¹ benefits as may be defined in title 38, U.S. code, chapter 1, section 101(11), or during any other conflict recognized by the award of a campaign or service medal of the United States, and who has been discharged under other than dishonorable conditions.

SECTION 3. That Section 67-5304, Idaho Code, be, and the same is hereby amended to read as follows:

67-5304. EXISTING MERIT SYSTEMS AND PERSONNEL SYSTEMS. ~~(1) Departments of the state whose personnel administration is governed by the merit system council and the public assistance personnel council shall continue to be so governed and administered, and shall not be participating departments in the personnel system established by this act, until the plans established under this act are determined acceptable by departments under these merit systems and until all departments not under such system are covered by this act. At such time, but no later than June 30, 1967, such systems shall cease to be in effect and operative and departments governed by them shall become participating departments in the personnel system established by this act. At such time, all records and equipment of the merit system council and the public assistance personnel council shall be transferred to the commission, giving each of the eligible contributing departments credit for reasonable market value of the office equipment transferred. Credit shall be issued back to the contributing departments at the same ratio as it was paid in.~~

(2) The personnel system administered by the personnel commission division of human resources created by this act is hereby designated as the "merit system," "civil service system" or "personnel system" as may be required by any other section of the Idaho Code for the administration of any department covered by this act; and all laws in conflict in whole or in part with the provisions of this act are hereby repealed to the extent of such conflict or inconsistency, provided, however, that in the implementation of this act those portions of chapter 35, title 67, Idaho Code, requiring approval of the admin-

istrator of the division of financial management of increase in compensation for any state employee, shall not be held to apply to employees covered under this act, but all departments whose salaries and administrative costs come from state appropriations shall prepare and file the reports and estimates in the office of the administrator of the division of financial management in accordance with chapter 35, title 67, Idaho Code, and personnel compensation thereunder shall not be effective until approved as being within the state budget limitations of the respective department.

SECTION 4. That Section 67-5305, Idaho Code, be, and the same is hereby amended to read as follows:

67-5305. EMPLOYEES HIRED PRIOR TO ENACTMENT OF THIS ACT. (1) ~~Any employee of the department of health and welfare, the employment security agency, the fish and game department, the department of public assistance, the department of disaster relief and civil defense, office of emergency planning, and the state police appointed or having rights or status under the rules of the merit system, personnel system, or laws of the state of Idaho in effect prior to the enactment of this act shall be given like or equivalent status and salary under the personnel system established by this act.~~

~~(2) An employee defined as classified herein, and not having rights or status as provided above, who prior to the date his department commences participation in the personnel system has served continuously for a period of six (6) months or more, and who is certified in writing by the administrative head of his department to be serving satisfactorily on such date shall be deemed to be a fully qualified employee under the Idaho personnel commission act. An employee with six (6) months or more of service, not so certified, may be:~~

~~(a) Separated, or~~

~~(b) Placed on probation for a six (6) month period commencing with the effective date of this act and at the end of probation be certified to be serving satisfactorily and be deemed a fully qualified employee under this act or, if not so certified, be separated, or~~

~~(c) Given provisional status pending the establishment of an adequate register of eligibles and shall not be continued in this status longer than thirty (30) days after establishment of an adequate register for his position.~~

~~(3) Except as provided in paragraph (1) of this section, a~~ An employee who has had less than six (6) calendar months of service on the date his department commences participation in the personnel system shall be required to pass a suitable non-competitive noncompetitive examination and satisfactorily complete a probationary period in order to be retained in a position.

~~(4) An employee who does not obtain a passing grade in the examination referred to in paragraph (3) subsection (2) of this section shall be separated from his position within thirty (30) days after the establishment of an adequate register of eligibles for such position.~~

SECTION 5. That Section 67-5306, Idaho Code, be, and the same is hereby amended to read as follows:

67-5306. APPLICABILITY OF FEDERAL MERIT SYSTEM STANDARDS. Notwithstanding any other provision, wherever federal merit system standards are applicable to any department covered by this act, financed in whole or in part by federal funds, rules and regulations shall be established or modified by the commission administrator pursuant to chapter 52, title 67, Idaho Code, to the extent necessary to apply such standards to personnel administration in such grant-in-aid programs, and to the positions and employees therein.

SECTION 6. 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 is hereby created by this act in the office of the governor and 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 chapter. The members of the personnel commission serving on the effective date of this act chapter shall continue in office subject to the provisions of this act chapter. 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. The chairman shall be 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 division of human resources shall be afforded an opportunity for a hearing before the commission division upon request therefor in writing. Minutes or summary of the proceedings of all hearings shall be made and filed with the commission division, together with findings of fact and conclusions of law made by the commission division.

(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 7. 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 DIVISION OF HUMAN RESOURCES -- SELECTION OF PERSONNEL-DIRECTOR ADMINISTRATOR. (1) It shall be the duty of the Idaho-personnel-commission division of human resources to administer this act chapter. The commission administrator of the division of human resources 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 chapter, 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 An administrator of the division of human resources in the office of the governor shall be appointed by the governor, shall be subject to confirmation by the senate and shall serve at the pleasure of governor. The administrator shall be experienced in personnel administration, and who shall be the executive secretary and administrative officer of the commission. The administrator shall provide necessary support to the commission when it carries out its duties.

SECTION 8. That Section 67-5309, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL COMMISSION. The commission administrator of the division of human resources shall have the power and authority to adopt, amend, or rescind such rules as may be necessary for proper administration of this act chapter. Such rules shall include:

(a) A rule requiring the personnel-commission administrator, after consulting with each department to develop, adopt, and make effective, a job classification system for positions covered by this act chapter, based upon an analysis of the duties and responsibilities of the positions. The job classification shall include an appropriate title for each class, and a description of duties and responsibilities of positions in the classes and the requirements of minimum training, experience and other qualifications, suitable for the performance of duties of the position.

(b) A rule describing the relevant labor markets and benchmark job classifications used in the commission's administrator's salary surveys.

(c) A rule requiring that all classes of positions which are common to the departments concerned shall have the same titles, minimum requirements and compensation ranges.

(d) A rule providing for review by the commission administrator of the personnel system including classifications and compensation policies and procedures.

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

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

all nonpreference eligibles. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the ten (10) top ranking available eligibles plus the names of all individuals with scores identical to the tenth ranking eligible on the register. A register with at least five (5) eligibles shall be adequate. Selective certification shall be permitted when justified by the hiring department, under rules to be made by the commission division defining adequate justification based on the duties and requirements of the positions. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one (1) year after departments commence participation in the personnel system.

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

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

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

(j) A rule establishing a probation period not to exceed one thousand forty (1,040) hours of credited state service for all appointments and promotions, except that peace officers as defined in section 19-5101, Idaho Code, shall be subject to a probation period of two thousand eighty (2,080) hours of credited state service, and for the appointing authority to provide the employee and the commission administrator a performance evaluation indicating satisfactory or unsatisfactory performance not later than thirty (30) days after the expiration of the probationary period. The rule shall provide that if the appointing authority fails to provide a performance evaluation within thirty (30) days after the expiration of the probationary period, the employee shall be deemed to have satisfactorily completed the probation unless the appointing authority receives approval from the ~~state-personnel-director~~ administrator to extend the probationary period for good cause for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. If an employee is performing in an unsatisfactory manner during the entrance probationary period, the appointing authority shall ask the employee to resign, and if no resignation is submitted, shall terminate the employment of such employee without the right of grievance or appeal.

(k) A rule concerning provisional appointments.

(l) A rule concerning temporary appointments.

(m) A rule governing the employment of consultants and persons retained under independent contract.

(n) A rule for the disciplinary dismissal, demotion, suspension or other discipline of employees only for cause with reasons given in writing. Such rule shall provide that any of the following reasons shall be proper cause for the disciplinary dismissal, demotion or suspension of any employee in the state classified service:

1. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes and rules of the employee's department, or rules of the personnel-commission administrator or the division.

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

3. Physical or mental incapability for performing assigned duties.

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

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

6. Intoxication on duty.

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

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

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

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

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

12. Habitual improper use of sick leave privileges.

13. Unauthorized disclosure of confidential information from official records.

14. Absence without leave.

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

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

17. Prohibited participation in political activities.

(o) A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system. For the purposes of this rule, the state shall be considered one (1) employer.

(p) Rules to provide for recruitment programs in cooperation with department heads and the employment security agency in keeping with current employment conditions and labor market trends.

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

employment vacancies.

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

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

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

(u) A rule providing for five percent (5%) shift differential pay.

SECTION 9. That Section 67-5309B, Idaho Code, be, and the same is hereby amended to read as follows:

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

(b) Job classifications established or revised by the commission administrator shall be assigned by the commission administrator to a pay grade subject to the approval of the administrator of the division of financial management, based on funding considerations.

(c) The commission administrator shall conduct or approve salary surveys within relevant labor markets to determine salary ranges that represent competitive labor market average rates paid by private industry and other governmental units for jobs of like value, based upon the guide chart profile system described in subsection (a) of this section. The results of such surveys shall be based on statistical, historical, or other economic factors. The factors herein referred to shall include, but are not limited to, anticipated salary adjustments for the positions surveyed, changes in cost-of-living as measured by the consumer price index, and anticipated adjustments in the average weekly wage in the state of Idaho, as defined and determined pursuant to section 72-409, Idaho Code.

(d) A report of the results of salary surveys and recommendations for changes in salaries, together with their estimated costs of implementation based on the competitive labor market average rate of each pay grade, as approved by the commission administrator, shall be submitted to the ~~office of the~~ governor not later than the first day of October of each year. If the governor accepts the commission's administrator's report, he shall submit it to the legislature prior to the seventh legislative day of each session. If the governor does not accept the report of the commission administrator, he shall submit his own report on proposed changes in salaries, and the commission's administrator's report, to the legislature prior to the seventh legislative day of each session. The legislature may, by concurrent resolution, accept, modify or reject either report. The failure of the legislature to accept, modify or reject either report prior to adjourn-

ment sine die shall constitute approval of the governor's report. The commission administrator shall implement the results of such salary changes by rule, using the payline formulas approved by the legislature and the mid-point of each pay grade established in section 67-5309C, Idaho Code.

SECTION 10. That Section 67-5309C, Idaho Code, be, and the same is hereby amended to read as follows:

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

STATE OF IDAHO
PAY GRADE SCHEDULE

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

(b) It is hereby declared to be the intent of the legislature that an employee may expect to advance in the salary range to the labor market average rate for the pay grade assigned to a classification. Advancement in pay shall be based solely on performance, including factors such as productivity, reliability, effectiveness, and the ability to achieve the goals and objectives of the particular position. No employee shall advance in a salary range without performance evaluation by the employee's immediate supervisor, approved by the departmental director or the director's designee certifying that the employee meets the performance criteria of the assigned position.

(i) When necessary to obtain qualified personnel in a particular classification, upon petition of the appointing authority to the commission administrator containing acceptable reasons therefor, a higher temporary pay grade may be authorized by the commission administrator which, if granted, shall be reviewed annually to determine the need for continuance.

(ii) Each employee's work performance shall be evaluated after one thousand forty (1,040) hours of credited state service from the date of initial appointment or promotion and after each two thousand eighty (2,080) hours of credited state service thereafter by his or her immediate supervisor. Employees may be eligible for advancement in pay, if certified as meeting the performance requirements of paragraph subsection (b) above of this section; however, such in-grade advancement shall not be construed as a vested right. The department director shall designate, upon agree-

ment with the employee, whether such in-grade advancement is temporary, conditional or permanent. It shall be the specific responsibility of the supervisor and the departmental director to effect the evaluation prescribed in paragraph subsection (b) above of this section on an evaluation form approved by the commission administrator for that purpose.

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

SECTION 11. That Section 67-5310, Idaho Code, be, and the same is hereby amended to read as follows:

67-5310. SERVICE TO OTHER POLITICAL SUBDIVISIONS. Subject to the approval of the commission administrator, agreements may be entered into with any political subdivision of the state of Idaho to furnish services and facilities of the commission division and staff to such political subdivisions in the administration of their personnel on merit principles. Any such agreement shall provide for reimbursement to the commission division of the reasonable cost of the services or facilities furnished as determined by the commission administrator.

SECTION 12. That Section 67-5314, Idaho Code, be, and the same is hereby amended to read as follows:

67-5314. METHOD OF FINANCING. (1) There is hereby created ~~in the state operating fund in the state treasury the personnel commission account~~ in the state treasury the division of human resources fund. All participating departments are hereby authorized and directed to pay out of their funds to the state treasurer their respective shares of the authorized budget of the commission division. All moneys placed in said account fund are hereby perpetually appropriated to the commission division for the administrative purposes of this act chapter. All expenditures from said account fund shall be paid out in warrants drawn by the state controller upon presentation of proper vouchers from the commission administrator.

(2) The commission division shall allocate costs of its operation to each participating department in the same proportion that the amount of the payroll for classified employees of the department bears to the total amount of the payroll for classified employees of all departments combined and averaged as to the basis for allocation of costs.

(3) Each participating department shall deposit to said account fund on a pay period basis as prescribed by the state controller, an amount equal to its share of costs of operation of ~~personnel commission~~ the human resources division according to the costs allocation formula set forth above. Departmental deposits for each succeeding

fiscal year shall be at a percentage rate of salaries and wages for positions subject to this act chapter, computed to be sufficient to carry out the intent and all provisions of this act chapter as directed by the legislature.

SECTION 13. That Section 67-5315, Idaho Code, be, and the same is hereby amended to read as follows:

67-5315. ESTABLISHMENT AND ADOPTION OF EMPLOYEE PROBLEM SOLVING AND DUE PROCESS PROCEDURES. (1) Each participating department shall, on or before July 1, 1997~~9~~, establish and adopt an employee problem solving procedure within such department, which shall be reduced to writing and shall be in full compliance with the provisions of the uniform problem solving procedure as adopted by rule by the ~~Idaho-personnel-commission~~ administrator pursuant to subsection (4) of this section. The department problem solving procedure shall be approved by the ~~state-personnel-director~~ administrator prior to implementation. A copy of the approved problem solving procedure plan shall be furnished and explained to each employee of the department concerned. No employee shall be disciplined or otherwise prejudiced in his employment for exercising his rights under the plan, and department heads shall encourage the use of the plan in the resolution of grievances arising in the course of public employment. A classified employee may file under the problem solving procedure any matter, except that compensation shall not be deemed a proper subject for consideration under the problem solving procedure except as it applies to alleged inequities within a particular agency or department, and except for termination during the entrance probationary period, and except for those matters set forth in subsection (2) of this section.

(2) No action of a participating department relating to a disciplinary dismissal, suspension or demotion, or an involuntary transfer shall be effective until the affected employee shall have received notice and an opportunity to be heard. The employee may then appeal to the Idaho personnel commission those disciplinary matters set forth in section 67-5316(1)(a), Idaho Code.

(3) If the filing concerns a matter which is reviewable pursuant to section 67-5316, Idaho Code, the time for appeal to the commission shall not commence to run until the employee has completed the problem solving procedure provided by the department in accordance with the terms thereof or, in the case of disciplinary actions set forth in subsection (2) of this section, until the disciplinary action becomes effective; provided, however, the failure of an employee to pursue the problem solving procedures established within the department shall constitute a waiver of the employee's right of review by the commission.

(4) On or before July 1, 1997~~9~~, the ~~Idaho--personnel--commission~~ division of human resources shall adopt a rule defining uniform problem solving and due process procedures for use by all participating departments. With respect to the problem ~~solvings~~ solving procedure, the rule shall provide a complete procedure for all stages of the process, including problem solving meetings with department representatives in the employee's chain of command. With respect to the due process procedure, the rule shall provide that the employee receive

notice and an opportunity to be heard before the department decides in favor of disciplinary action. The rule shall also provide for time periods for each step of the procedures. The rule shall provide for the use of an impartial mediator upon agreement between the agency and the employee. The employee shall be entitled to be represented by a person of the employee's own choosing at each step of the procedures, except the initial informal discussion with the immediate supervisor prior to filing under the problem solving procedure.

SECTION 14. That Section 67-5316, Idaho Code, be, and the same is hereby amended to read as follows:

67-5316. APPEAL PROCEDURE. (1) Appeals shall be limited to the following:

(a) Any classified employee who has successfully completed the entrance probationary period may, after completing the departmental due process procedure, appeal a disciplinary dismissal, demotion or suspension.

(b) Any classified employee may, after completing the departmental problem solving procedure, appeal the failure of an appointing authority to provide a right and/or benefit to which the employee is entitled by law.

(c) Any interested person may appeal any decision or action taken by the ~~state personnel director or staff of the Idaho personnel commission~~ administrator of the division of human resources or the staff of the division of human resources in the performance of their official duties.

(d) Any interested person may appeal any other matters as may now or later be assigned to the personnel commission by law.

(2) The decision or action of the appointing authority shall be final and conclusive unless a classified employee files an appeal within thirty-five (35) days after completing the departmental problem solving or due process procedure concerning the actions referred to in subsection (1)(a), (b), (c) and (d) of this section. A decision of the ~~personnel commission director or staff~~ administrator shall be final and conclusive as to any other interested person unless an appeal is filed within thirty-five (35) days of written notice of that decision.

(3) The commission shall assign the matter for hearing to a duly appointed hearing officer, who may be a member of the commission.

(4) Where the action in dispute was the discharge, demotion, or suspension, upon determination that proper cause did not in fact exist within the definitions set forth in section 67-5309(m), Idaho Code, or that the action was taken by reason of illegal discrimination, the commission or the hearing officer shall order the reinstatement of the employee in the same position or a position of like status and pay, with or without loss of pay for the period of discharge, demotion, or suspension, or may order such other remedy as may be determined to be appropriate. In all other disputed matters, the commission and the hearing officer may order such action as may be appropriate.

(5) Process and procedure under this act shall be as summary and simple as reasonably may be. The hearing officer appointed by the commission shall have the power to subpoena witnesses, administer oaths, and examine such of the books and records of the parties to a proceed-

ing as relate to the questions in dispute. A verbatim record of the proceedings at hearings before the commission or a hearing officer shall be maintained either by electrical devices or by stenographic means, as the commission or hearing officer may direct, but if any party to the action requests a stenographic record of the proceedings, the record shall be done stenographically. The requesting party shall pay the costs of transcribing the proceedings.

The district court, in and for the county in which any proceedings before the Idaho personnel commission are held, shall have the power to enforce by proper proceedings the attendance and testimony of witnesses, and production and examination of books, papers, and records.

(6) If the parties reach an agreement in regard to the matters of dispute, a memorandum of the agreement shall be filed with the commission and, if approved by it, the memorandum shall be enforceable for all purposes.

(7) The hearing officer shall give written notice of the time and place of hearing, either by personal service or by mail. Service by mail shall be deemed complete when a copy of such notice is deposited in the United States post office, with postage prepaid, addressed to a party's last known address, as shown in the records and files of the commission. An affidavit of personal service shall be filed by the person making the same.

(8) The hearing officer to whom the matter has been assigned shall make such inquiry and investigations as shall be deemed necessary. The hearings shall be held in such place as the hearing officer may designate. The decision of the hearing officer, consisting of such findings of fact, conclusions of law and orders as are necessary, together with the record of the proceedings, shall be filed in the office of the Idaho personnel commission. A copy of the hearing officer's decision shall be immediately sent to the parties by United States mail. The decision of the hearing officer shall be final and conclusive between the parties, unless a petition for review is filed with the commission within thirty-five (35) days. The petition for review shall specifically cite the alleged errors of fact or law made by the hearing officer.

(9) Any party in interest may file in the district court for the county in which any party to the proceedings resides, a certified copy of the final decision of the hearing officer, which the district court shall have the power to enforce by proper proceedings.

(10) Where the decision and order of the hearing officer directed the reinstatement of an employee, the employee shall be reinstated upon receipt of a copy of the decision unless a petition for review is filed.

SECTION 15. That Section 67-5317, Idaho Code, be, and the same is hereby amended to read as follows:

67-5317. PETITION FOR REVIEW PROCEDURE. (1) If a petition for review is filed, the personnel commission shall review the record of the proceeding before the hearing officer, briefs submitted in accordance with any briefing schedule it orders, and any transcripts submitted of the hearing below. The commission may grant the parties the opportunity to present oral argument, but need not do so if the record

clearly shows that the commission or the hearing officer lacks jurisdiction over the appeal or petition for review. The personnel commission may affirm, reverse or modify the decision of the hearing officer, may remand the matter, or may dismiss it for lack of jurisdiction.

(2) Any party in interest may file in the district court for the county in which any party to the proceedings resides, a certified copy of the decision of the commission, which the district court shall have the power to enforce by proper proceedings.

(3) A decision of the commission shall be final and conclusive between the parties, unless within forty-two (42) days of the filing of such decision either party appeals to the district court. Where the decision of the personnel commission directed the reinstatement of an employee, the employee shall be reinstated upon receipt of a copy of the decision unless a stay of the order be granted by the district court upon proper petition.

SECTION 16. That Section 67-5333, Idaho Code, be, and the same is hereby amended to read as follows:

67-5333. SICK LEAVE COMPUTATION. (1) The rate per hour at which sick leave shall accrue to classified officers and employees earning credited state service shall be at the rate represented by the proportion 96/2080. Sick leave shall accrue without limit, and shall be transferable from department to department.

(2) Sick leave shall not accrue to any officer or employee on any kind of leave of absence without pay, suspension without pay or lay-off, or when working overtime. Sick leave shall accrue while an officer or employee is on approved leave with pay, on approved vacation leave, on approved military leave with pay, and on approved sick leave.

(3) All accrued sick leave shall be forfeited at the time of separation from state service and no officer or employee shall be reimbursed for accrued sick leave at the time of separation, except as provided in section 67-5339, Idaho Code. If such officer or employee returns to credited state service within three (3) years of such separation, all sick leave credits accrued at the time of separation shall be reinstated, except to the extent that unused sick leave was utilized for the purposes specified in section 67-5339, Idaho Code.

(4) Sick leave shall be taken on a workday basis. Regularly scheduled days off and officially designated holidays falling within a period of sick leave shall not be counted against sick leave. Sick leave shall not be taken in advance of being earned.

(5) In cases where absences for sick leave exceed three (3) consecutive working days, the appointing authority may require verification by a physician or other authorized practitioner.

(6) If an absence for illness or injury extends beyond the sick leave accrued to the credit of the officer or employee, the officer or employee may be granted leave without pay.

(7) The ~~personnel-commission~~ administrator shall prescribe additional requirements for sick leave for classified officers and employees on a part-time or irregular schedule, for maintaining sick leave

records, for funeral leave, and such other applicable purposes as necessary.

SECTION 17. 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,
The administrator of the division of human resources,
 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 presi-

dent 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 chapter shall not apply to appointments which have been made prior to the effective date of this act chapter. 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 18. That Section 67-429, Idaho Code, be, and the same is hereby amended to read as follows:

67-429. POWERS AND DUTIES. (1) It shall be the duty of the council to collect and compile information, to draft bills and to conduct research upon any subject which the legislature may authorize or direct or upon any subject which it may determine, provided that all activities of the council must be reasonably related to a legislative purpose. The legislature may make specific assignments to the council by a concurrent resolution approved by both houses.

(2) The council may hold public hearings and it may authorize or direct any of its committees to hold public hearings on any matters within the jurisdiction of the council.

(3) The council shall establish and maintain a legislative reference library.

(4) For the purpose of conducting any study within the jurisdiction of the council, by resolution adopted by the affirmative vote of two-thirds (2/3) of the entire membership of the council, the chairman

of the council may subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence or other documents or records which the council deems relevant or material to any matter on which the council or any committee is conducting a study.

(5) It shall be the duty of the council to superintend and administer the legislative space in the capitol building at all times, and to prepare such space when required for the sessions of the legislature, which shall include the provision of furniture and equipment.

(6) The legislative council shall review and make recommendations to the personnel-commission administrator of the division of human resources on all aspects of the state personnel system, including policies, wages and salaries.

(7) The council has authority to appoint committees and hire staff or contract for services to implement the provisions of this section. In addition to the duties provided above, the council has authority to:

(a) Provide the legislature with research and analysis of current and projected state revenue, state expenditure and state tax expenditures;

(b) Provide the legislature with a report analyzing the governor's proposed levels of revenue and expenditures for budgets and supplemental budget requests submitted to the legislature;

(c) Provide an analysis of the impact of the governor's proposed revenue and expenditure plans for the next fiscal year;

(d) Conduct research on matters of economic and fiscal policy and report to the legislature on the result of the research;

(e) Provide economic reports and studies on the state of the state's economy including trends and forecasts for consideration by the legislature;

(f) Conduct budget and tax studies and provide general fiscal and budgetary information;

(g) Review and make recommendations on the operation of state programs in order to appraise the implementation of state laws regarding the expenditure of funds and to recommend means of improving their efficiency;

(h) Recommend to the legislature changes in the mix of revenue sources for programs, in the percentage of state expenditures devoted to major programs, and in the role of the legislature in overseeing state government expenditures and revenue projections;

(i) Make a continuing study and investigation of the building needs of the government of the state of Idaho, including, but not limited to, the following: the current and future requirements of new buildings, the maintenance of existing buildings, rehabilitating and remodeling of old buildings, the planning of administrative offices, and exploring the methods of financing building and related costs; and

(j) Conduct a study of state-local finance, analyzing and making recommendations to the legislature on issues including levels of state support for political subdivisions, basic levels of local need, balances of local revenues and options, relationship of local taxes to individuals' ability to pay and financial reporting by political subdivisions.

(8) In performing its duties under subsection (7) of this section, the council and its employees may consider, among other things:

(a) The relative dependence on state tax revenues, federal funds and user fees to support state-funded programs, and whether the existing mix of revenue sources is appropriate given the purpose of the programs;

(b) The relative percentages of state expenditures that are devoted to major programs such as education, assistance to local government, aid to individuals, state agencies and institutions and debt service; and

(c) The role of the legislature in overseeing state government expenditures, including legislative appropriation of money from the general account, legislative appropriation of money from funds other than the general account, state agency receipt of money into revolving and other dedicated funds and expenditure of money from these funds and state agency expenditure of federal funds.

(9) The council's recommendations shall consider the long-term needs of the state. The recommendations must not duplicate work done by standing committees of the senate and house of representatives.

(10) The council may, after consultation with the governor and with the chairs of the standing committees of the legislature, select mandates and state programs for review. When selecting mandates, state aids or state programs to be reviewed, the council may consider those that involve payments to local units of government. Staff from affected agencies, staff from the division of financial management and legislative staff shall participate in the reviews.

(11) The following state aids and associated state mandates may be reviewed:

(a) Local government aid, ad valorem property tax credits, tax increment financing and fiscal disparities;

(b) Human service aids;

(c) Educational support dollars utilized for school district general fund aids, school district capital expenditure fund aids, and school district debt service fund aids;

(d) General government aids including natural resource aids, environmental protection aids, transportation aids, economic development aids and general infrastructure aids.

(12) At the direction of the council, the reviews of state aids and state mandates involving state financing of local government activities listed in subsection (11) of this section may include:

(a) The employment status, wages and benefits of persons employed in administering the programs;

(b) The desirable applicability of state procedural laws or rules;

(c) Methods for increasing political subdivision options in providing their share, if any, of program costs;

(d) Desirable redistributions of funding responsibilities for the program and the time period during which any recommended funding distribution should occur;

(e) Opportunities for reducing program mandates and giving political subdivisions more flexibility in meeting program needs;

(f) Comparability of treatment of similar units of government;

(g) The effect of the state aid or mandate on the distribution of

tax burdens among individuals based upon ability to pay;

(h) Coordination of the payment or allocation formula with other state aid programs;

(i) Incentives that have been created for local spending decisions, and whether the incentives should be changed;

(j) Ways in which political subdivisions have changed their revenue-raising behavior since receiving these grants;

(k) An assessment of the accountability of all government agencies that participate in the administration of the program.

(13) The legislative council may provide for a complete audit of any and every fund in the state treasury and other state moneys at least once in every two (2) fiscal years, and commencing for fiscal year 1995 and each year thereafter shall provide for an annual statewide financial audit of the statewide annual financial report prepared by the state controller, and is hereby authorized:

(a) To supervise and examine the accounts and expenditures of the several departments and public institutions of the state and to prescribe rules ~~and regulations~~ necessary to assure the adequacy and timeliness of all audits performed for or on behalf of all political subdivisions thereof;

(b) To inspect securities held by the several departments and public institutions of the state and the political subdivisions thereof;

(c) To examine, at any and all times, the accounts of every private corporation, institution, association, or board receiving appropriations from the legislature or contracting for health and welfare services with the state of Idaho;

(d) To demand and receive reports from the state treasurer, state controller, director of the department of finance, and any other officer or agency, and from the several state depositories;

(e) To publish, from time to time, for the information of the several departments and of the general public, bulletins of the works of government;

(f) To be the official depository of all audits of the several departments and public institutions of the state and its political subdivisions; the filing of an audit with the official depository shall satisfy all requirements for the filing of an audit with the state, any other provision of law notwithstanding;

(g) To review or have reviewed the work papers or other documentation utilized in the audit of a state department or public institution of the state and its political subdivisions, and to reject for filing in the official depository any report based upon unsatisfactory work papers or inadequately supported documentation;

(h) To review and approve the terms and conditions or other statement of services to be provided on any or all contracts or agreements by state government agencies for audits or audit type services; and

(i) To report to the attorney general, for such action, civil or criminal, as the attorney general may deem necessary, all facts showing illegal expenditure of the public money or misappropriation of the public money or misappropriation of the public property. The governor and state controller shall also be notified

when the report is made to the attorney general pursuant to this subsection.

All reports, findings and audits of the legislative council pursuant to this subsection shall be submitted to the legislature and to the governor.

SECTION 19. That Section 67-1911, Idaho Code, be, and the same is hereby amended to read as follows:

67-1911. FINANCIAL MANAGEMENT TECHNICAL DEVELOPMENT COMMITTEE. Because accounting, budgeting and financial information programs and policies are vital to the affairs of the legislative as well as the executive branch, there is hereby created a financial management technical development committee consisting of the officers listed below, which committee shall meet not less often than quarterly on the call of the chairman, to review financial information programs and policies and disapprove such programs or policies by a majority vote if deemed appropriate. The members of the committee shall be the administrator of the division of financial management who shall be chairman, the director of the department of state information systems, the director of the personnel commission administrator of the division of human resources, ~~the director of the legislative budget office,~~ and the director of the legislative council services office, all of whom shall be voting members, ~~and the legislative auditor, whose role shall be advisory.~~

SECTION 20. That Section 67-4126, Idaho Code, be, and the same is hereby amended to read as follows:

67-4126. POWERS AND DUTIES OF BOARD. The board of trustees of the society shall have powers and duties as follows:

1. To appoint a director of the society as provided herein and advise him in the performance of his duties and formulate general policies affecting the society.
2. To encourage and promote interest in the history of Idaho and encourage membership in the society.
3. To collect for preservation and display artifacts and information illustrative of Idaho history, culture and society.
4. To print such publications and reports as may be deemed necessary.
5. To encourage creation of county historical societies and museums in the counties of Idaho.
6. To facilitate the use of Idaho records for official reference and historical research.
7. To accept from any state, county, or city, or any public official, any official books, records, documents, original papers, newspaper files, printed books, or portraits, not in current use. When such documents are so accepted, copies therefrom shall be made and certified under the seal of the society upon application of any person, which person shall pay for such copies reasonable fees established by the society.
8. To require that any state, county, or city, or any public official, deposit official books, records, documents, or original

papers, not in current use, which are of definite historical importance, in the society for preservation and to provide methods whereby such materials, which have no significance, may be destroyed.

9. To establish such rules and regulations as may be necessary to discharge the duties of the society.

10. To employ such personnel as may be necessary for the administration of its duties in accordance with the standards-prescribed-by rules of the personnel-commission administrator of the division of human resources promulgated pursuant to chapter 52, title 67, Idaho Code.

11. To have and use an official seal.

12. To delegate and provide subdelegation of any such authority.

13. To identify historic, architectural, archaeological, and cultural sites, buildings, or districts, and to coordinate activities of local historic preservation commissions.

14. To serve as the geographic names board of the state of Idaho.

SECTION 21. That Section 22-4113, Idaho Code, be, and the same is hereby amended to read as follows:

22-4113. LIMITATIONS OF PROVISIONS. The provisions of this act shall not apply to employees of the federal government nor employees of the state or political subdivisions of the state. Employees of the board and the board members shall not come under the provisions of the Idaho-personnel-commission chapter 53, title 67, Idaho Code.

SECTION 22. That Section 36-106, Idaho Code, be, and the same is hereby amended to read as follows:

36-106. DIRECTOR OF DEPARTMENT OF FISH AND GAME. (a) Office of Director Created. The commission shall appoint a director of the department of fish and game, hereinafter referred to as the director, who shall be a person with knowledge of, and experience in, the requirements for the protection, conservation, restoration, and management of the wildlife resources of the state. The director shall not hold any other public office, nor any office in any political party organization, and shall devote his entire time to the service of the state in the discharge of his official duties, under the direction of the commission.

(b) Secretary to Commission. The director or his designee shall serve as secretary to the commission.

(c) Compensation and Expenses. The director shall receive such compensation as the commission, with the concurrence and approval of the governor, may determine and shall be reimbursed at the rate provided by law for state employees for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties.

(d) Oath and Bond. Before entering upon the duties of his office, the director shall take and subscribe to the official oath of office, as provided by section 59-401, Idaho Code, and shall, in addition thereto, swear and affirm that he holds no other public office, nor any position under any political committee or party. Such oath, or affirmation, shall be signed in the office of the secretary of state.

The director shall be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code.

(e) Duties and Powers of Director.

1. The director shall have general supervision and control of all activities, functions, and employees of the department of fish and game, under the supervision and direction of the commission, and shall enforce all the provisions of the laws of the state, and rules and proclamations of the commission relating to wild animals, birds, and fish and, further, shall perform all the duties prescribed by section 67-2405, Idaho Code, and other laws of the state not inconsistent with this act, and shall exercise all necessary powers incident thereto not specifically conferred on the commission.

2. The director is hereby authorized to appoint as many classified employees as the commission may deem necessary to perform administrative duties, to enforce the laws and to properly implement management, propagation, and protection programs established for carrying out the purposes of the Idaho fish and game code.

3. The appointment of such employees shall be made by the director in accordance with ~~the Idaho personnel commission act~~ chapter 53, title 67, Idaho Code, and rules promulgated pursuant to ~~chapter--53,--title--67,--Idaho--Code~~ thereto, and they shall be compensated as provided therein. Said employees shall be bonded to the state of Idaho in the time, form, and manner prescribed by chapter 8, title 59, Idaho Code.

4. The director is hereby authorized to establish and maintain fish hatcheries for the purpose of hatching, propagating, and distributing all kinds of fish.

5. (A) The director, or any person appointed by him in writing to do so, may take wildlife of any kind, dead or alive, or import the same, subject to such conditions, restrictions and ~~regulations~~ rules as he may provide, for the purpose of inspection, cultivation, propagation, distribution, scientific or other purposes deemed by him to be of interest to the fish and game resource of the state.

(B) The director shall have supervision over all of the matters pertaining to the inspection, cultivation, propagation and distribution of the wildlife propagated under the provisions of title 36, Idaho Code. He shall also have the power and authority to obtain, by purchase or otherwise, wildlife of any kind or variety which he may deem most suitable for distribution in the state and may have the same properly cared for and distributed throughout the state of Idaho as he may deem necessary.

(C) The director is hereby authorized to issue a license/tag/permit to a nonresident landowner who resides in a contiguous state for the purpose of taking one (1) animal during an emergency depredation hunt which includes the landowner's Idaho property subject to such conditions, restrictions and regulations rules as the director may provide. The fee for this license/tag/permit shall be equal to the costs of a resident hunting license, a resident tag fee and a resident depredation permit.

(D) Notwithstanding the provisions of section 36-408, Idaho Code, to the contrary, on and after the effective date of this act, the director shall not expend any funds, or take any action, or authorize any employee or agent of the department or other person to take any action, to undertake actual transplants of bighorn sheep into areas they do not now inhabit or to augment the number of bighorn sheep in existing herds until:

(i) The boards of county commissioners of the counties in which the release is proposed to take place have been given reasonable notice of the proposed release.

(ii) The affected federal and state land grazing permittees and owners or leaseholders of private land in or contiguous to the proposed release site have been given reasonable notice of the proposed release.

(iii) The president pro tempore of the senate and the speaker of the house of representatives have received from the director a plan for the forthcoming year that details, to the best of the department's ability, the proposed transplants which shall include the estimated numbers of bighorn sheep to be transplanted and a description of the areas the proposed transplant or transplants are planned for.

Upon request, the department shall grant one (1) hearing per transplant if any affected individual or entity expresses written concern within ten (10) days of notification regarding any transplants of bighorn sheep and shall take into consideration these concerns in approving, modifying or canceling any proposed bighorn sheep transplant. Any such hearing shall be held within thirty (30) days of the request. Upon any transplant of bighorn sheep into areas they do not now inhabit or a transplant to augment existing populations, the department shall provide for any affected federal or state land grazing permittees or owners or leaseholders of private land a written letter signed by all federal, state and private entities responsible for the transplant stating that the existing sheep or livestock operations in the area of any such bighorn sheep transplant are recognized and that the potential risk, if any, of disease transmission and loss of bighorn sheep when the same invade domestic livestock or sheep operations is accepted.

6. (A) The director shall have the power, at any time when it is desired to introduce any new species, or if at any time any species of wildlife of the state of Idaho shall be threatened with excessive shooting, trapping, or angling or otherwise, to close any open season for such time as he may designate; in the event an emergency is declared to exist such closure shall become effective forthwith upon written order of the director; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.
- (B) In order to protect property from damage by wildlife, the fish and game commission may delegate to the director or his designee the authority to declare an open season upon

that particular species of wildlife to reduce its population. The director or his designee shall make an order embodying his findings in respect to when, under what circumstances, in which localities, by what means, and in what amounts, numbers and sex the wildlife subject to the hunt may be taken. In the event an emergency is declared to exist such open season shall become effective forthwith upon written order of the director or his designee; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.

(C) Any order issued under authority hereof shall be published in at least one (1) newspaper of general circulation in the area affected by the order for at least once a week for two (2) consecutive weeks, and such order shall be posted in public places in each county as the director may direct.

(D) During the closure of any open season or the opening of any special depredation season by the director all provisions of laws relating to the closed season or the special depredation season on such wildlife shall be in force and whoever violates any of the provisions shall be subject to the penalties prescribed therefor.

(E) Prior to the opening of any special depredation hunt, the director or his designee shall be authorized to provide up to a maximum of fifty percent (50%) of the available permits for such big game to the landholder(s) of privately owned land within the hunt area or his designees. If the landholder(s) chooses to designate hunters, he must provide a written list of the names of designated individuals to the department. If the landholder(s) fails to designate licensed hunters, then the department will issue the total available permits in the manner set by rule. All hunters must have a current hunting license and shall have equal access to both public and private lands within the hunt boundaries. It shall be unlawful for any landholder(s) to receive any form of compensation from a person who obtains or uses a depredation controlled hunt permit.

7. The director shall make an annual report to the governor, the legislature, and the secretary of state, of the doings and conditions of his office, which report shall be made in accordance with section 67-2509, Idaho Code.

8. The director may sell or cause to be sold publications and materials in accordance with section 59-1012, Idaho Code.

9. Any deer, elk, antelope, moose, bighorn sheep or bison imported or transported by the department of fish and game shall be tested for the presence of certain communicable diseases that can be transmitted to domestic livestock. Those communicable diseases to be tested for shall be arrived at by mutual agreement between the department of fish and game and the department of agriculture. Any moneys expended by the department of fish and game on wildlife disease research shall be mutually agreed upon by the department of fish and game and the department of agriculture.

In addition, a comprehensive animal health program for all deer, elk, antelope, moose, bighorn sheep, or bison imported into, transported, or resident within the state of Idaho shall be imple-

mented after said program is mutually agreed upon by the department of fish and game and the department of agriculture.

In order to enhance and protect the health of wildlife within the state, as well as safeguard the health of livestock resources, the director of the department of agriculture shall employ at least one (1) veterinarian licensed in Idaho whose duties shall include, but not be limited to, addressing wildlife disease issues and coordinating disease prevention work between the department of fish and game and the department of agriculture. The employing of said veterinarian shall be by mutual agreement of the director of the department of fish and game and of the director of the department of agriculture. The veterinarian shall be on the staff of the division of animal industries, department of agriculture. The salary or compensation to be paid said veterinarian or veterinarians shall be divided equally between the department of fish and game and the department of agriculture, and the department of fish and game's portion shall be deposited directly into the livestock disease control account. The veterinarian shall be employed on and after July 1, 1989.

10. In order to monitor and evaluate the disease status of wildlife and to protect Idaho's livestock resources, any suspicion by fish and game personnel of a potential communicable disease process in wildlife shall be reported within twenty-four (24) hours to the department of agriculture. All samples collected for disease monitoring or disease evaluation of wildlife shall be submitted to the division of animal industries, department of agriculture.

11. (A) The director is authorized to enter into an agreement with an independent contractor for the purpose of providing a telephone order and credit card payment service for controlled hunt permits, licenses, tags, and permits.

(B) The contractor may collect a fee for its service in an amount to be set by contract.

(C) All moneys collected for the telephone orders of such licenses, tags, and permits shall be and remain the property of the state, and such moneys shall be directly deposited by the contractor into the state treasurer's account in accordance with the provisions of section 59-1014, Idaho Code. The contractor shall furnish a good and sufficient surety bond to the state of Idaho in an amount sufficient to cover the amount of the telephone orders and potential refunds.

(D) The refund of moneys for unsuccessful controlled hunt permit applications and licenses, tags, and permits approved by the department may be made by the contractor crediting the applicant's or licensee's credit card account.

SECTION 23. That Section 36-202, Idaho Code, be, and the same is hereby amended to read as follows:

36-202. DEFINITIONS. Whenever the following words appear in title 36, Idaho Code, and orders and rules promulgated by the Idaho fish and game commission or the director of the Idaho department of fish and game, they shall be deemed to have the same meaning and terms of reference as hereinafter set forth. The present tense includes the past

and future tenses, and the future, the present.

(a) "Title" means all of the fish and game laws and rules promulgated pursuant thereto.

(b) "Commission" means the Idaho fish and game commission. "Commissioner" means a member of the Idaho fish and game commission.

(c) "Department" means the Idaho department of fish and game.

(d) "Director" means the director of the Idaho department of fish and game or any person authorized to act in his name.

(e) "Employee" means any employee of the Idaho department of fish and game whose salary is paid entirely or in part by funds administered by the Idaho fish and game commission and whose appointment is made in accordance with ~~the Idaho personnel commission act~~ chapter 53, title 67, Idaho Code, and related rules.

(f) "Person" means an individual, partnership, corporation, company, or any other type of association, and any agent or officer of any partnership, corporation, company, or other type of association. The masculine gender includes the feminine and the neuter. The singular, the plural, and the plural, the singular.

(g) "Wildlife" means any form of animal life, native or exotic, generally living in a state of nature.

(h) "Trophy big game animal" shall mean any big game animal deemed a trophy as per Boone and Crockett standards. For the purpose of this section, the highest of the typical or nontypical scores shall be used, described as follows:

1. Mule deer: any buck scoring over one hundred fifty (150) points;
2. White-tailed deer: any buck scoring over one hundred thirty (130) points;
3. Elk: any bull scoring over three hundred (300) points;
4. Bighorn sheep: any ram;
5. Moose: any bull;
6. Mountain goat: any male or female;
7. Pronghorn antelope: any buck with at least one (1) horn exceeding fourteen (14) inches;
8. Caribou: any male or female.

(i) "Take" means hunt, pursue, catch, capture, shoot, fish, seine, trap, kill, or possess or any attempt to so do.

(j) "Hunting" means chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, shooting at, stalking, or lying in wait for, any wildlife whether or not such wildlife is then or subsequently captured, killed, taken, or wounded. Such term does not include stalking, attracting, searching for, or lying in wait for, any wildlife by an unarmed person solely for the purpose of watching wildlife or taking pictures thereof.

(k) "Fishing" means any effort made to take, kill, injure, capture, or catch any fish or bullfrog.

(l) "Trapping" means taking, killing, and capturing wildlife by the use of any trap, snare, deadfall, or other device commonly used to capture wildlife, and the shooting or killing of wildlife lawfully trapped, and includes all lesser acts such as placing, setting or staking such traps, snares, deadfalls, and other devices, whether or not such acts result in the taking of wildlife, and every attempt to take and every act of assistance to any other person in taking or

attempting to take wildlife with traps, snares, deadfalls, or other devices.

(m) "Possession" means both actual and constructive possession, and any control of the object or objects referred to; provided that wildlife taken accidentally and in a manner not contrary to the provisions of this title shall not be deemed to be in possession while being immediately released live back to the wild.

(n) "Possession limit" means the maximum limit in number or amount of wildlife which may be lawfully in the possession of any person. "Possession limit" shall apply to wildlife being in possession while in the field or being transported to final place of consumption or storage.

(o) "Bag limit" means the maximum number of wildlife which may be legally taken, caught, or killed by any one (1) person for any particular period of time, as provided by order of the commission. The term "bag limit" shall be construed to mean an individual, independent effort and shall not be interpreted in any manner as to allow one (1) individual to take more than his "bag limit" toward filling the "bag limit" of another.

(p) "Buy" means to purchase, barter, exchange, or trade and includes any offer or attempt to purchase, barter, exchange, or trade.

(q) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging or trading.

(r) "Transport" means to carry or convey or cause to be carried or conveyed from one (1) place to another and includes an offer to transport, or receipt or possession for transportation.

(s) "Resident" means any person who has been domiciled in this state, with a bona fide intent to make this his place of permanent abode, for a period of not less than six (6) months immediately preceding the date of application for any license, tag, or permit required under the provisions of this title or orders of the commission and who, when temporarily absent from this state, continues residency with intent to return, and who does not claim any resident privileges in any other state or country for any purpose. Such privileges include, but are not limited to: state where valid driver's license is issued; state of voter registration; state where resident state income taxes are filed; state where homeowner's tax exemption is granted. Provided that, until any such person has been continuously domiciled outside the state of Idaho for a sufficient period of time to qualify for resident hunting and fishing privileges in his new state of residence, said person shall be deemed not to have lost his residency in Idaho for the purposes of this title. However, mere ownership of real property or payment of property taxes in Idaho does not establish residency. Provided further that:

1. Idaho residents shall not lose their residency in Idaho if they are absent from the state for religious (not to exceed two (2) years) or full-time educational (not to exceed five (5) years) purposes, full-time to be defined by the educational institution attended, and do not claim residency or use resident privileges in any other state or country for any purpose.

2. Idaho residents who are in the military service of the United States and maintain Idaho as their official state of residence as shown on their current leave and earnings statement, together with

their spouse and children under eighteen (18) years of age living in the household, shall be eligible for the purchase of resident licenses.

3. A member of the military service of the United States or of a foreign country, together with his spouse and children under eighteen (18) years of age residing in his household, who have been officially transferred, stationed, domiciled and on active duty in this state for a period of thirty (30) days last preceding application shall be eligible, as long as such assignment continues, to purchase a resident license. A member of the state national guard or air national guard, domiciled in this state for a period of thirty (30) days last preceding application shall be eligible, as long as such residency continues, to purchase a resident license.

4. Any person enrolled as a corpsman at a job corps center in Idaho shall be eligible, as long as he is so enrolled, to obtain a resident fishing license irrespective of his length of residence in this state.

5. Any foreign exchange student enrolled in an Idaho high school shall be eligible, as long as he is so enrolled, to obtain a resident fishing license irrespective of his length of residence in this state.

(t) "Senior resident" means any person who is over sixty-five (65) years of age and who has been a resident of the state of Idaho as hereinbefore provided for not less than five (5) years.

(u) "Nonresident" means any person who does not qualify as a resident.

(v) "Order, rule, regulation and proclamation" are all used interchangeably and each includes the others.

(w) "Blindness" means sight that does not exceed 20/200 as provided by the administrative guidelines of section 56-213, Idaho Code.

(x) "Public highway" means the traveled portion of, and the shoulders on each side of, any road maintained by any governmental entity for public travel, and includes all bridges, culverts, overpasses, fills, and other structures within the limits of the right-of-way of any such road.

(y) "Motorized vehicle" means any water, land or air vehicle propelled by means of steam, petroleum products, electricity, or any other mechanical power.

(z) "Commercial fish hatchery" means any hatchery, pond, lake or stream or any other waters where fish are held, raised, or produced for sale but shall not include facilities used for the propagation of fish commonly considered as ornamental or aquarium varieties.

(aa) "License" means any license, tag, permit or stamp.

(bb) "License vendor" means any person authorized to issue or sell licenses.

(bbcc) "Proclamation" shall mean the action by the commission and publication of the pertinent information as it relates to the seasons and limits for taking wildlife.

SECTION 24. That Section 57-727, Idaho Code, be, and the same is hereby amended to read as follows:

57-727. STAFF INVESTMENT MANAGER -- STAFF -- LEGAL ADVISORS. (1)

With the approval of two-thirds (2/3) of the members of the board, a staff investment manager and assistant staff investment manager(s) may be employed who shall perform such managerial activities and functions as the board may direct. The staff investment manager and assistant staff investment manager(s) shall serve at the pleasure of the board in nonclassified positions. The staff investment manager and assistant staff investment manager(s) shall be employed by the board. The salary of the staff investment manager and assistant staff investment manager(s) shall be set by the board, subject to approval of the governor, and be paid from appropriations made therefor. The staff investment manager and assistant staff investment manager(s) shall be bonded in an amount established by the board.

(2) The board may authorize the employment of whatever staff it deems necessary for the administration of the board's business. The staff investment manager shall hire such authorized additional staff who shall hold their respective positions subject to the rules of the Idaho-personnel-commission administrator of the division of human resources promulgated pursuant to chapter 52, title 67, Idaho Code. The salaries of all staff members shall be paid from appropriations made therefor.

(3) The director of the department of finance shall have access to any and all books and records maintained by the staff investment manager and his staff as the board may deem necessary.

(4) The board shall be furnished adequate and qualified legal advisors by the attorney general's office.

(5) All current expenses, capital outlay, and travel expenses shall be paid from appropriations made therefor.

(6) The board shall, upon request of the agency involved, furnish advice to the treasurer, the manager of the state insurance fund, and the public employees retirement board, and the board may, upon request of the agency, invest funds of the requesting agency.

SECTION 25. That Section 59-1303, Idaho Code, be, and the same is hereby amended to read as follows:

59-1303. ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) Police officer membership status for retirement purposes may be fixed only by law, or by order of the retirement board.

(3) Members holding or filling the following positions or offices are designated by law as police officer members for retirement purposes during the time of their appointment to that position or during their term of office:

(a) (i) The director and deputy director of the department of law enforcement, the administrator of the Idaho state police division and the assistant director of the police services division.

(ii) Commissioned personnel of the state police division, police services division and alcohol beverage control division holding positions which involve active law enforcement services, for which current POST certification is required to

continue in employment in the position, POST instructors, and department of law enforcement training instructors.

(iii) Brand inspectors and brand inspector supervisors.

(iv) Employees of the department of law enforcement serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law-enforcement service are not eligible for police officer member status.

- (b) (i) County sheriffs;
- (ii) Deputy county sheriffs holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; deputy county sheriffs holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in county law enforcement activities pertaining to crime prevention or reduction; deputy sheriffs, even though POST certified or required to be POST certified, holding positions whose principal full-time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.
- (c) (i) City police chiefs;
- (ii) City police officers holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; city police officers holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in city law enforcement activities pertaining to crime prevention or reduction; police officers, even though POST certified or required to be POST certified, holding positions whose principal full-time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.
- (d) Employees of the department of fish and game serving in a conservation officer position for which current POST certification is necessary to continue in employment in that position and which position has as its primary accountability the enforcement of wildlife protection laws and regulations.
- (e) (i) The director of the department of correction, the deputy director for probation and parole, and wardens of institutions;
- (ii) Employees of the department of correction accountable for the custody, safety, safekeeping or supervision of persons confined in a department confinement facility and whose work station is located within the confinement facility;

- (iii) Probation and parole supervisors, probation and parole investigators, and probation and parole officers;
 - (iv) Correctional peace officer training instructors;
 - (v) Employees of the department of correction serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.
 - (f) Employees of the adjutant general and military division of the state where military membership is a condition of employment.
 - (g) Magistrates of the district court; justices of the supreme court, judges of the court of appeals, and district judges who have made an election under section 1-2011, Idaho Code; and court employees designated by court order to have primary responsibility for court security or transportation of prisoners.
 - (h) Paramedics and paramedic trainees.
 - (i) Criminal investigators of the attorney general's office, and criminal investigators of a prosecuting attorney's office.
 - (j) The director of security and the criminal investigators of the Idaho state lottery.
- (4) A member may be designated by the retirement board as a police officer member for retirement purposes if the position held is one in which the principal duties involve hazardous law enforcement duties.
- (a) For purposes of this section, "hazardous law enforcement duties" means principal duties which:
 - (i) Will reasonably expect to increase the probability of early superannuation;
 - (ii) Is associated with life-threatening risk or presents a position of peril either to the member or to others, or which can place the public safety in jeopardy; and
 - (iii) Either compels others to observe the law, pertains to crime prevention, or pertains to crime reduction, including police, courts, prosecution, correction, or rehabilitation.
 - (b) If continued employment in a position is conditioned on maintaining current POST certification, such condition shall be evidence to be considered that the employee is a police officer member for retirement purposes.
 - (i) After July 1, 1985⁹⁹, a requirement for POST certification for classified state employees may be made only by the personnel--commission administrator of the division of human resources pursuant to chapter 53, title 67, Idaho Code.
 - (c) Occasional assignments to hazardous law enforcement duties do not create a condition for designation as a police officer member for retirement purposes.
 - (5) Any employer or agency that believes that any employee, not specifically designated as a police officer by law, is incorrectly classified as a nonpolice officer member, may petition the retirement board for inclusion of that employee's position as one to be filled by a police officer member for retirement purposes. The petition shall be in writing and shall explain in detail the principal duties of the position and include written evidence which establishes that the cri-

teria of subsection (4) are met. The board shall review the petition and evidence, together with such information and evidence as may be presented by the staff of the retirement system. The board may decide the matter based upon the information supplied, may request additional information, or may request an oral presentation before the board. The decision of the board shall be final, but a similar petition may be resubmitted after six (6) months.

(6) On and after July 1, 1985, no active member shall be classified as a police officer for retirement purposes unless the employer shall have certified to the board, on a form provided by the board, that such member is an employee whose primary position with the employer is one designated as such within the meaning of this chapter, and the board shall have accepted such certification. Acceptance by the board of an employer's certification shall in no way limit the board's right to review and reclassify the position for retirement purposes based upon an audit or other relevant information presented to the board.

(7) An active member classified as a police officer for retirement purposes whose position is reclassified to that of a general member for retirement purposes as a result of a determination that the position does not meet the requirements of this chapter for police officer status for retirement purposes shall become a general member but shall not lose retirement benefits earned and accrued prior to the reclassification. If that member continues to be employed in that same position until retired, that member then will be deemed to be a police officer member for the purposes of retirement eligibility.

SECTION 26. That Section 59-1603, Idaho Code, be, and the same is hereby amended to read as follows:

59-1603. CONFORMITY WITH CLASSIFIED POSITIONS. (1) To the extent possible, each nonclassified position in the executive department will be paid a salary or wage comparable to classified positions with similar duties, responsibilities, training, experience and other qualifications. Temporary employees and agricultural inspectors referred to in subsections (n) and (p) of section 67-5303, Idaho Code, shall not be entitled to sick leave accruals provided in section 59-1605, Idaho Code, vacation leave provided in section 59-1606, Idaho Code, nor holiday pay defined in subsection (~~214~~) of section 67-5302, Idaho Code, unless contributions are being made to the public employees retirement system in accordance with chapter 13, title 59, Idaho Code, and rules promulgated by the retirement board. Vacation and sick leave accruals, but not holiday pay, shall be awarded retroactively, if necessary, to the date such employees become eligible for retirement system membership.

(2) To the extent possible, each nonclassified position in the legislative department will be paid a salary or wage comparable to classified positions with similar duties, responsibilities, training, experience and other qualifications.

(3) The supreme court shall determine the schedules of salary and compensation for all officers and employees of the judicial department which are not otherwise fixed by law. To the extent possible, the supreme court shall adopt schedules which are compatible with the

state's accounting system. The judicial department may also maintain personnel records and files under such system as is ordered by the supreme court.

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

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

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

(7) In addition to salary increases provided by any compensation schedule adopted pursuant to paragraph (6) of this section, nonclassified officers and employees, except those who are elected officials or whose salaries are fixed by law, may be granted a lump sum bonus not to exceed one thousand dollars (\$1,000) in any given fiscal year based upon an affirmative certification of meritorious service. Exceptions to the one thousand dollar (\$1,000) limit provided in this section may be granted if approved in advance by the state board of examiners.

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

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

Approved March 26, 1999.

CHAPTER 371
(S.B. No. 1254, As Amended)

AN ACT

RELATING TO THE STATE INCOME TAX ON LOTTERY WINNINGS; AMENDING SECTION 63-3067, IDAHO CODE, TO PROVIDE A DISTRIBUTION OF MONEY REMITTED PURSUANT TO THE STATE INCOME TAX WITHHOLDING TAX ON LOTTERY WINNINGS AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-3067, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067. REVENUE RECEIVED -- STATE REFUND ACCOUNT. (1) A sum equal to the amount withheld under section 63-3035A, Idaho Code, shall be distributed fifty percent (50%) to the public school income fund to be utilized to facilitate and provide substance abuse programs in the public school system, and fifty percent (50%) shall be distributed to the counties to be utilized for county juvenile probation services. These funds shall be distributed quarterly to the counties based upon the percentage the population of the county bears to the population of the state as a whole.

(2) All moneys except as provided in subsection (1) of this section, and except as hereinafter provided, received by the state of Idaho under this act shall be deposited by the state tax commission, as received by it, with the state treasurer and shall be placed in and become a part of the general account under the custody of the state treasurer. Providing however, that an amount equal to twenty per cent percent (20%) of the amount deposited with the state treasurer shall be placed in the "state refund account" which is hereby created for the purpose of repaying overpayments, for the purpose of depositing in the trust accounts specified in section 63-3067A, Idaho Code, such amounts as may be designated by individuals for the purpose of depositing in the Idaho ag in the classroom account an amount as may be designated by the individual receiving a refund for such overpayment, and for the purpose of paying any other erroneous receipts illegally assessed or collected, penalties collected without authority and taxes and licenses unjustly assessed, collected or which are excessive in amount. Whenever necessary for the purpose of making prompt payment of refunds, the board of examiners, upon request from the state tax Commission, and after review, may authorize the state tax commission to transfer any additional specific amount from income tax collections to the "state refund account." There is appropriated out of the state refund account so much thereof as may be necessary for the payment of the refunds herein provided. Claims for, and payment of refunds under the provisions of this section shall be made in the same manner as other claims against the state of Idaho.

Any unencumbered balance remaining in the state refund account on June 30 of each and every year in excess of the sum of one million five hundred thousand dollars (\$1,500,000) shall be transferred to the

general account and the state controller is hereby authorized and directed on such dates to make such transfers unless the board of examiners, which is hereby authorized to do so, changes the date of transfer or sum to be transferred.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved March 26, 1999.

CHAPTER 372
(H.B. No. 167)

AN ACT

RELATING TO THE FISH AND GAME COMMISSION; AMENDING SECTION 36-104, IDAHO CODE, TO AUTHORIZE THE COMMISSION TO PROMULGATE RULES AUTHORIZING THE DIRECTOR OF THE DEPARTMENT OF FISH AND GAME TO ISSUE ADDITIONAL CONTROLLED HUNT PERMITS AND COLLECT FEES THEREFOR AUTHORIZING LANDOWNERS OF PROPERTY VALUABLE FOR HABITAT OR PROPAGATION PURPOSES OF DEER, ELK OR ANTELOPE OR THE LANDOWNER'S DESIGNATED AGENT TO HUNT DEER, ELK OR ANTELOPE IN CONTROLLED HUNTS CONTAINING THE ELIGIBLE PROPERTY OWNED BY THOSE LANDOWNERS IN UNITS WHERE ANY PERMITS FOR DEER, ELK OR ANTELOPE ARE LIMITED.

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

SECTION 1. That Section 36-104, Idaho Code, be, and the same is hereby amended to read as follows:

36-104. GENERAL POWERS AND DUTIES OF COMMISSION. (a) Organization -- Meetings. The members of the commission shall annually meet at their offices in the city of Boise and organize by electing from their membership a chairman, who shall hold office for a period of one (1) year, or until his successor has been duly elected. In addition to the regular annual meeting, to be held in January, said commission shall hold other regular quarterly meetings in April, July and October of each year at such places within the state as the commission shall select for the transaction of business. Special meetings may be called at any time and place by the chairman or a majority of the members of the commission. Notice of the time, place and purpose of any and all special meetings shall be given by the secretary to each member of the commission prior to said meeting.

(b) Authorization for Commission Powers and Duties. For the purpose of administering the policy as declared in section 36-103, Idaho Code, the commission is hereby authorized and empowered to:

1. Investigate and find facts regarding the status of the state's wildlife populations in order to give effect to the policy of the state hereinbefore announced.
2. Hold hearings for the purpose of hearing testimony, considering evidence and determining the facts as to when the supply of any of the wildlife in this state will be injuriously affected by

the taking thereof, or for the purpose of determining when an open season may be declared for the taking of wildlife. Whenever said commission determines that the supply of any particular species of wildlife is being, or will be, during any particular period of time, injuriously affected by depletion by permitting the same to be taken, or if it should find a longer or different season, or different bag limit should be adopted for the better protection thereof, or if it finds that an open season may be declared without endangering the supply thereof, then it shall make a rule or proclamation embodying its findings in respect to when, under what circumstances, in which localities, by what means, what sex, and in what amounts and numbers the wildlife of this state may be taken.

3. Whenever it finds it necessary for the preservation, protection, or management of any wildlife of this state, by reason of any act of God or any other sudden or unexpected emergency, declare by temporary rule or proclamation the existence of such necessity, and the cause thereof, and prescribe and designate all affected areas or streams, and close the same to hunting, angling or trapping, or impose such restrictions and conditions upon hunting, angling or trapping as said commission shall find to be necessary. Every such temporary rule shall be made in accordance with the provisions of chapter 52, title 67, Idaho Code.

4. At any time it shall deem necessary for the proper management of wildlife on any game preserve in the state of Idaho, declare an open season in any game preserve as it deems appropriate.

5. (A) Upon notice to the public, hold a public drawing giving to license holders, under the wildlife laws of this state, the privilege of drawing by lot for a controlled hunt permit authorizing the person to whom issued to hunt, kill, or attempt to kill any species of wild animals or birds designated by the commission under such rules as it shall prescribe.

(B) The commission may, under rules or proclamations as it may prescribe, authorize the director to issue additional controlled hunt permits and collect fees therefor authorizing ~~landowners, lessees-in-control~~ of land property valuable for habitat or propagation purposes of deer, elk or antelope, or ~~members-of-their-immediate-families,~~ or the landowner's designated agent(s) to hunt deer, elk or antelope in controlled hunts units containing the eligible land property owned or controlled by those individuals landowners in areas units where any permits for deer, elk or antelope are limited.

(C) A nonrefundable fee of five dollars (\$5.00) shall be charged each applicant for a controlled hunt permit; provided however, there shall be no fees charged for controlled hunt permits subsequently issued to successful applicants. Additionally, a fee may be charged for telephone and credit card orders in accordance with subsection (e)11. of section 36-106, Idaho Code. The department shall include a checkoff form to allow applicants to designate one dollar (\$1.00) of such five dollar (\$5.00) fee for transmittal to the reward fund of citizens against poaching, inc., an Idaho nonprofit

corporation. From the net proceeds generated by the nonrefundable fee, the director shall transfer from the fish and game account to the big game secondary depredation account each fiscal year an amount that equals two hundred fifty thousand dollars (\$250,000) less the amount of earned interest transferred in accordance with section 36-115(b), Idaho Code, or two hundred thousand dollars (\$200,000), whichever is less, until the total of all transfers from the fish and game account to the big game secondary depredation account equals one million two hundred fifty thousand dollars (\$1,250,000) as certified by the state controller. When the department's total transfers to the big game secondary depredation account equal or exceed one million two hundred fifty thousand dollars (\$1,250,000), the net proceeds from the non-refundable fee shall be deposited in the fish and game account and none of the net proceeds shall be used to purchase lands.

6. Adopt rules pertaining to the importation, exportation, release, sale, possession or transportation into, within or from the state of Idaho of any species of live, native or exotic wildlife or any eggs thereof.

7. Acquire for and on behalf of the state of Idaho, by purchase, condemnation, lease, agreement, gift, or other device, lands or waters suitable for the purposes hereinafter enumerated in this paragraph. Whenever the commission proposes to purchase a tract of land in excess of fifteen (15) acres, the commission shall notify the board of county commissioners of the county where this land is located of the intended action. The board of county commissioners shall have ten (10) days after official notification to notify the commission whether or not they desire the commission to hold a public hearing on the intended purchase in the county. The commission shall give serious consideration to all public input received at the public hearing before making a final decision on the proposed acquisition. Following any land purchase, the fish and game commission shall provide, upon request by the board of county commissioners, within one hundred twenty (120) days, a management plan for the area purchased that would address noxious weed control, fencing, water management and other important issues raised during the public hearing. When considering purchasing lands pursuant to this paragraph, the commission shall first make a good faith attempt to obtain a conservation easement, as provided in chapter 21, title 55, Idaho Code, before it may begin proceedings to purchase, condemn or otherwise acquire such lands. If the attempt to acquire a conservation easement is unsuccessful and the commission then purchases, condemns or otherwise acquires the lands, the commission shall record in writing the reasons why the attempt at acquiring the conservation easement was unsuccessful and then file the same in its records and in a report to the joint finance-appropriations committee. The commission shall develop, operate, and maintain the lands, waters or conservation easements for said purposes, which are hereby declared a public use:

(A) For fish hatcheries, nursery ponds, or game animal or game bird farms;

(B) For game, bird, fish or fur-bearing animal restoration, propagation or protection;

(C) For public hunting, fishing or trapping areas to provide places where the public may fish, hunt, or trap in accordance with the provisions of law, or the regulation of the commission;

(D) To extend and consolidate by exchange, lands or waters suitable for the above purposes.

8. Enter into cooperative agreements with educational institutions, and state, federal, or other agencies to promote wildlife research and to train students for wildlife management.

9. Enter into cooperative agreements with state and federal agencies, municipalities, corporations, organized groups of landowners, associations, and individuals for the development of wildlife rearing, propagating, management, protection and demonstration projects.

10. In the event owners or lawful possessors of land have restricted the operation of motor-propelled vehicles upon their land, the commission, upon consultation with all other potentially affected landowners, and having held a public hearing, if requested by not less than ten (10) residents of any county in which the land is located, may enter into cooperative agreements with those owners or possessors to enforce those restrictions when the restrictions protect wildlife or wildlife habitat. Provided, however, the commission shall not enter into such agreements for lands which either lie outside or are not adjacent to any adjoining the proclaimed boundaries of the national forests in Idaho.

(A) The landowners, with the assistance of the department, shall cause notice of the restrictions, including the effective date thereof, to be posted on the main traveled roads entering the areas to which the restrictions apply. Provided, however, that nothing in this subsection shall allow the unlawful posting of signs or other information on or adjacent to public highways as defined in subsection (5) of section 40-109, Idaho Code.

(B) Nothing in this section authorizes the establishment of any restrictions that impede normal forest or range management operations.

(C) No person shall violate such restrictions on the use of motor-propelled vehicles or tear down or lay down any fencing or gates enclosing such a restricted area or remove, mutilate, damage or destroy any notices, signs or markers giving notice of such restrictions. The commission may promulgate rules to administer the restrictions and cooperative agreements addressed in this subsection.

11. Capture, propagate, transport, buy, sell or exchange any species of wildlife needed for propagation or stocking purposes, or to exercise control of undesirable species.

12. Adopt rules pertaining to the application for, issuance of and administration of a lifetime license certificate system.

13. Adopt rules governing the application and issuance of permits for and administration of fishing contests on waters under the jurisdiction of the state.

14. Adopt rules governing the application for and issuance of licenses by telephone and other electronic methods.

(c) Limitation on Powers. Nothing in this title shall be construed to authorize the commission to change any penalty prescribed by law for a violation of its provisions, or to change the amount of license fees or the authority conferred by licenses prescribed by law.

(d) Organization of Work. The commission shall organize the department, in accordance with the provisions of title 67, Idaho Code, into administrative units as may be necessary to efficiently administer said department. All employees of the department except the director shall be selected and appointed by the director in conformance with the provisions of chapter 53, title 67, Idaho Code.

Approved March 26, 1999.

CHAPTER 373
(H.B. No. 192)

AN ACT

RELATING TO THE TRANSPORTATION OF PUBLIC SCHOOL STUDENTS; AMENDING SECTION 33-1501, IDAHO CODE, TO PROVIDE THE BOARD OF TRUSTEES OF ANY SCHOOL DISTRICT MAY PURCHASE OR LEASE, AND MAINTAIN AND OPERATE SCHOOL BUSES AND VANS, WHICH VANS SHALL NOT HAVE A SEATING CAPACITY IN EXCESS OF FIFTEEN PERSONS, AND MAY ENTER INTO AGREEMENTS OR CONTRACTS FOR THE USE OF A CHARTER BUS OR BUSES.

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

SECTION 1. That Section 33-1501, Idaho Code, be, and the same is hereby amended to read as follows:

33-1501. TRANSPORTATION AUTHORIZED. To afford more equal opportunity for public school attendance, the board of trustees of each district, including specially chartered school districts, shall, where practicable, provide transportation for the public school pupils within the district, and pupils resident within adjoining districts annually agreed to in writing by the districts involved, under conditions and limitations herein set forth. Nonpublic school students may be transported, where practicable, when the full costs for providing such transportation are recovered. In approving the routing of any school bus, or in the maintenance and operation of all such transportation equipment, or in the appointment or employment of chauffeurs, the primary requirements to be observed by the board of trustees are the safety and adequate protection of the health of the pupils. Nothing herein contained shall prevent any board of trustees from denying transportation to any pupil in any school bus operated by or under the authority of said board, upon good cause being given, in writing, to the parents or guardian, or either of them, of such pupil.

No board of trustees shall be required to provide transportation for any pupil living less than one and one-half (1 1/2) miles from the nearest appropriate school. A board of trustees may require pupils who

live less than one and one-half (1 1/2) miles from the nearest established bus stop to walk or provide their own transportation to such bus stop. That distance shall be determined by the nearest and best route from the junction of the driveway of the pupil's home and the nearest public road, to the nearest door of the schoolhouse he attends, or to the bus stop, as the case may be. The board may transport any pupil a lesser distance when in its judgment the age or health or safety of the pupil warrants.

A day care center, family day care home, or a group day care facility, as defined in section 39-1102, Idaho Code, may substitute for the student's residence for student transportation to and from school. School districts may not transport students between child care facilities and home. Student transportation between a child care facility and a school will qualify for state reimbursement providing that the child care facility is one and one-half (1 1/2) miles or more from the school to which the student is transported.

To effectuate the public policy hereby declared, the board of trustees of any school district may purchase or lease, and maintain and operate school buses and vans, which vans shall not have a seating capacity in excess of fifteen (15) persons; may enter into agreements or contracts for the use of a charter bus or buses; may enter into contracts with individuals, firms, corporations or private carriers; or may make payments to parents or guardians, subject to the limitations herein provided, when transportation is not furnished by the district.

Approved March 26, 1999.

CHAPTER 374
(H.B. No. 195)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE CORRECT REFERENCES AND TO CLARIFY DEPOSIT OF REVENUES FROM SPECIAL LICENSE PLATE PROGRAMS; AND AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-417B, IDAHO CODE, TO ESTABLISH AN IDAHO AGRICULTURE LICENSE PLATE PROGRAM.

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

SECTION 1. 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 distribu-

tion 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, 49-417B, 49-419 and 49-420, 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). For special plates issued pursuant to section 49-418A, Idaho Code, the initial program fee and the annual renewal fee shall be fifty dollars (\$50.00). 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~~ as specified by law for each program.

SECTION 2. 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 49-417B, Idaho Code, and to read as follows:

49-417B. IDAHO AGRICULTURE PLATES. (1) On and after January 1, 2000, any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for Idaho agriculture plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over sixteen thousand (16,000) pounds. Availability of Idaho agriculture plates for other vehicles may be authorized by rule of the board.

(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 the 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 transferred by the state treasurer to the ag in the classroom account created by the provisions of section 57-815, 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 after receipt of new registration from the department.

(4) The Idaho agriculture license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. That portion of the design which features Idaho agriculture shall be acceptable to the Food Producers of Idaho, Inc. and shall be approved by the department utilizing a numbering system as determined by the department. Initial costs of the plate program, including the cost of plate design, shall be paid from the ag in the classroom account.

(5) Sample Idaho agriculture plates may be purchased from the department 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 transferred to the ag in the classroom account.

Approved March 26, 1999.

CHAPTER 375
(H.B. No. 213)

AN ACT

RELATING TO MILITARY SELECTIVE SERVICE REGISTRATION; AMENDING TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 5, TITLE 46, IDAHO CODE, TO PROVIDE THE PURPOSE OF THE CHAPTER, TO PROVIDE LEGISLATIVE FINDINGS, TO PROVIDE ELIGIBILITY FOR POSTSECONDARY EDUCATION AND FOR FINANCIAL ASSISTANCE, TO PROVIDE ELIGIBILITY FOR EMPLOYMENT AND TO PROVIDE EXCEPTIONS.

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

SECTION 1. That Title 46, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 5, Title 46, Idaho Code, and to read as follows:

CHAPTER 5

SELECTIVE SERVICE REGISTRATION AWARENESS AND COMPLIANCE

46-501. PURPOSE OF THE CHAPTER. The purpose of this chapter is to encourage compliance with the federal military selective service act and to protect the eligibility of the citizens of this state who are subject to the provisions of the federal statute to receive federal financial assistance for postsecondary education and for employment with the executive branch of the federal government. The federal selective service registration awareness and compliance act requires persons subject to the provisions of the federal military selective service act to be in compliance with the requirements of that federal statute as a condition of eligibility for enrollment at a state-supported institution of postsecondary education, or for state-supported scholarships, programs of financial assistance funded by state revenue including federal funds, gifts or grants accepted by the state, or for employment by the state or any political subdivision.

46-502. LEGISLATIVE FINDINGS. The legislature of the state of Idaho finds that the military selective service act at 50 U.S.C. sec. 451 et seq. requires all male citizens and every other male person residing in the United States, except for lawfully admitted nonimmigrant aliens, upon reaching their eighteenth birthday to register with the United States selective service system. The legislature further finds that federal statutes limit eligibility for federal student financial assistance and eligibility for employment within the executive branch of the federal government to persons who are in compliance with the requirements of the federal military selective service act.

46-503. ELIGIBILITY FOR POSTSECONDARY EDUCATION AND FINANCIAL ASSISTANCE -- RESPONSIBILITY TO VERIFY COMPLIANCE. (1) A person may not enroll in a state-supported institution of postsecondary education unless he is in compliance with the federal military selective service act.

(2) A person may not receive a loan, grant, scholarship or other financial assistance for postsecondary education funded by state revenue, including federal funds or gifts and grants accepted by this state, or receive a student loan guaranteed by the state unless he is in compliance with the federal military selective service act.

(3) It shall be the duty of all officials having charge of and authority over state-supported institutions of postsecondary education and over the granting of state-supported financial assistance for postsecondary education to assure themselves that applicants are in compliance with the federal military selective service act. The institutions are authorized to develop the necessary form to allow the applicant to certify compliance with the selective service act.

46-504. ELIGIBILITY FOR EMPLOYMENT -- RESPONSIBILITY TO VERIFY

COMPLIANCE. (1) No male person who has attained the age of eighteen (18) years who fails to be in compliance with the federal selective service act shall be eligible for employment by or service for the state of Idaho, or a political subdivision of the state, including all boards and commissions, departments, agencies, institutions and instrumentalities.

(2) It shall be the duty of all officials having charge of and authority over hiring of employees by the state or political subdivisions of the state to assure themselves that applicants are in compliance with the federal military selective service act. The hiring authorities are authorized to develop the necessary form to allow the applicant to certify compliance with the selective service act.

46-505. EXCEPTIONS TO THE REQUIREMENTS OF THIS CHAPTER. A person shall not be denied a right, privilege or benefit under this chapter by reason of failure to present himself for and submit to the requirement to register pursuant to the federal military selective service act if:

(1) The requirement for the person to so register has terminated or become inapplicable to the person; or

(2) The person is serving or has already served in the armed forces, or has a condition that would preclude acceptability for military service.

Approved March 26, 1999.

CHAPTER 376
(H.B. No. 235, As Amended)

AN ACT

RELATING TO HABEAS CORPUS; REPEALING CHAPTER 42, TITLE 19, IDAHO CODE; AMENDING TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 42, TITLE 19, IDAHO CODE, TO ESTABLISH THE HABEAS CORPUS AND INSTITUTIONAL LITIGATION PROCEDURES ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE JURISDICTION TO CONSIDER PETITIONS FOR WRIT OF HABEAS CORPUS, TO PROVIDE WHO MAY PETITION FOR WRIT OF HABEAS CORPUS, TO PROVIDE FOR APPLICATION FOR WRIT OF HABEAS CORPUS BY A PERSON WHO IS NOT A PRISONER, TO PROVIDE APPLICATION FOR WRIT OF HABEAS CORPUS BY A PRISONER, TO PROVIDE THAT A PRISONER IS REQUIRED TO EXHAUST ADMINISTRATIVE REMEDIES IN CONDITIONS OF CONFINEMENT CASES, TO PROVIDE FOR APPLICATION FOR WRIT OF HABEAS CORPUS ON BEHALF OF ANOTHER PERSON, TO PROVIDE GENERAL PROCEDURES GOVERNING HABEAS CORPUS PROCEEDINGS, TO PROVIDE PROCEDURES GOVERNING PRISONER HABEAS CORPUS PROCEEDINGS, TO PROVIDE FOR DISCOVERY IN HABEAS CORPUS PROCEEDINGS, TO PROVIDE FOR ISSUANCE OF A WRIT OF HABEAS CORPUS, TO PROVIDE THAT INJUNCTIVE RELIEF IS AVAILABLE TO A PERSON WHO IS NOT A PRISONER, TO PROVIDE THAT RELIEF IS AVAILABLE FOR CONSTITUTIONAL VIOLATIONS DURING THE COURSE OF REVOCATION OF PAROLE, TO PROVIDE THAT RELIEF IS AVAILABLE FOR MISCALCULATION OF A SENTENCE, TO PROVIDE THAT RELIEF IS AVAILABLE FOR LOSS OF GOOD TIME CREDITS, TO PROVIDE THAT RELIEF IS AVAILABLE FOR DETAINERS,

TO PROVIDE THAT INJUNCTIVE RELIEF IS AVAILABLE TO PRISONERS AND OTHER INSTITUTIONALIZED PERSONS IN CONDITIONS OF CONFINEMENT CASES, TO PROVIDE FOR TERMINATION OF AN INJUNCTIVE RELIEF ORDER OR DECREE IN CONDITIONS OF CONFINEMENT CASES, TO PROVIDE FOR IMMEDIATE TERMINATION OF AN ORDER OR DECREE FOR PROSPECTIVE RELIEF IN CONDITIONS OF CONFINEMENT CASES, TO PROVIDE FOR SETTLEMENTS AND CONSENT DECREES IN CONDITIONS OF CONFINEMENT CASES, TO PROVIDE FOR SUCCESSIVE CLAIMS, TO PROVIDE THAT A PRIOR SHOWING OF PHYSICAL INJURY OR MENTAL ILLNESS IS REQUIRED, TO PROVIDE THAT THE RIGHT OF ACCESS TO COURT IS NOT EXPANDED, TO PROVIDE THAT THE CHAPTER SETS FORTH AN EXCLUSIVE REMEDY, TO PROVIDE THAT A LIBERTY INTEREST IS NOT CREATED AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Chapter 42, Title 19, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 42, Title 19, Idaho Code, and to read as follows:

CHAPTER 42

HABEAS CORPUS AND INSTITUTIONAL LITIGATION PROCEDURES ACT

19-4201. SHORT TITLE. Sections 19-4201 through 19-4226, Idaho Code, shall be known and may be cited as the "Idaho Habeas Corpus and Institutional Litigation Procedures Act."

19-4202. JURISDICTION TO CONSIDER PETITIONS FOR WRIT OF HABEAS CORPUS. The following courts of this state shall have original jurisdiction to consider a petition for writ of habeas corpus, grant the writ and/or order relief under this chapter:

- (1) The supreme court; or
- (2) The district court of the county in which the person is detained.

19-4203. WHO MAY PETITION FOR A WRIT OF HABEAS CORPUS. (1) Any person, not a prisoner as defined in section 31-3220A(1)(d), Idaho Code, who believes he is unlawfully restrained of his liberty in this state may file a petition for writ of habeas corpus to request that the court inquire into the cause and/or legality of the restraint.

(2) A prisoner, as defined in section 31-3220A(1)(d), Idaho Code, or a person who is restrained of his liberty while involved in parole revocation proceedings, or while held on an agent or commission warrant in this state, may file a petition for writ of habeas corpus to request that a court inquire into state or federal constitutional questions concerning:

- (a) The conditions of his confinement;
- (b) Revocation of parole;
- (c) Miscalculation of his sentence;
- (d) Loss of good time credits;

(e) A detainer lodged against him.

(3) Habeas corpus shall not be used as a substitute for, or in addition to, a direct appeal of a criminal conviction or proceedings under Idaho criminal rule 35 or the uniform post-conviction procedures act, chapter 49, title 19, Idaho Code, and the statutes of limitations imposed therein.

(4) Habeas corpus shall not be used as a substitute for or in addition to proceedings available in child custody matters and proceedings under the Idaho domestic violence crime prevention act, chapter 63, title 39, Idaho Code.

(5) Habeas corpus is an individual remedy only.

(6) For purposes of this chapter and any other civil challenges to conditions of confinement, the term "conditions of confinement" shall be defined as any civil proceeding with respect to a state or county institution, prison or jail condition arising under state or federal law with respect to the conditions of confinement or the effects of actions by government officials on the life of a person confined in a state or county institution, prison or jail.

19-4204. APPLICATION FOR WRIT OF HABEAS CORPUS BY A PERSON NOT A PRISONER. (1) Application for a writ of habeas corpus by a person not a prisoner shall be made by filing a petition for writ of habeas corpus in the district court of the county in which the person is restrained.

(2) The petition must be verified by the oath or affirmation of the party applying for the writ and shall specify:

(a) That the person is unlawfully restrained of his liberty;

(b) The identity and address of the person restraining the subject of the petition;

(c) The name and address of the place in which the person is restrained;

(d) A description of the facts which make the restraint illegal; and

(e) The theory of law upon which relief is sought, if known.

(3) Application under this section may be made by a guardian on behalf of a minor or by a guardian on behalf of an incapacitated person as defined in section 15-5-101, Idaho Code.

19-4205. APPLICATION FOR WRIT OF HABEAS CORPUS BY A PRISONER.

(1) Application for a writ of habeas corpus by a prisoner shall be made by filing a petition for a writ of habeas corpus in the district court of the county in which the prisoner claims his confinement or aspects of his confinement violate provisions of the state or federal constitutions.

(2) The petition must be verified by the oath or affirmation of the prisoner applying and shall specify that the prisoner is alleging state or federal constitutional violations concerning:

(a) The conditions of his confinement;

(b) The revocation of his parole;

(c) Miscalculation of his sentence;

(d) Loss of good time credits; or

(e) A detainer lodged against him.

(3) A petition filed by a prisoner under subsections (1) and (2)

of this section shall specify:

(a) The identity and address of the person or officer whom the prisoner believes is responsible for the alleged state or federal constitutional violations, and shall name the persons identified individually as respondents;

(b) The name, if any, and address of the place in which the prisoner is incarcerated;

(c) The name and address of the place in which the prisoner claims the constitutional violation under subsections (2)(a) through (2)(e) of this section occurred; and

(d) A short and plain statement of the facts underlying the alleged state or federal constitutional violation.

(4) The state of Idaho, any of its political subdivisions, or any of its agencies shall not be named as respondents in a prisoner petition for writ of habeas corpus.

19-4206. PRISONERS REQUIRED TO EXHAUST ADMINISTRATIVE REMEDIES IN CONDITIONS OF CONFINEMENT CASES. (1) Unless a petitioner who is a prisoner establishes to the satisfaction of the court that he is in imminent danger of serious physical injury, no petition for writ of habeas corpus or any other civil action shall be brought by any person confined in a state or county institution, prison or jail, with respect to conditions of confinement until all available administrative remedies have been exhausted. If the institution, prison or jail does not have a system for administrative remedy, this requirement shall be waived.

(2) At the time of filing, the petitioner shall submit, together with the petition for writ of habeas corpus a true, correct and complete copy of any documentation which demonstrates that he has exhausted administrative remedies described in subsection (1) of this section.

(3) If at the time of filing the petition for writ of habeas corpus the petitioner fails to comply with this section, the court shall dismiss the petition with or without prejudice.

19-4207. APPLICATION FOR WRIT OF HABEAS CORPUS ON BEHALF OF ANOTHER. A petition for writ of habeas corpus may only be filed by a person described in section 19-4203, Idaho Code, or his attorney, except that a petition may be filed on behalf of an aggrieved person who is a minor, or on behalf of a person who is incapacitated as defined by section 15-5-101, Idaho Code, by the aggrieved person's legal guardian.

19-4208. GENERAL PROCEDURES GOVERNING HABEAS CORPUS PROCEEDINGS.

A habeas corpus proceeding is a civil action and is governed by the provisions of this chapter and the Idaho court rules to the extent that such rules are not inconsistent with this act.

19-4209. PROCEDURES GOVERNING PRISONER HABEAS CORPUS PROCEEDINGS.

(1) The court may dismiss with prejudice a petition for writ of habeas corpus under this section, in whole or in part, prior to service of the petition on the respondent, if the court finds:

(a) The petition is frivolous as defined in section 12-122, Idaho

Code;

(b) The petition has been brought maliciously or solely to harass;

(c) The petition fails to state a claim of constitutional violation upon which relief can be granted;

(d) The alleged constitutional deprivation is de minimis in nature; or

(e) The relief sought by the prisoner is monetary damages or the return of property.

(2) If the court finds that the petition should not be dismissed, then:

(a) The court shall mail a copy of the petition and order of response to the respondent or the respondent's counsel, if known;

(b) A response must be filed within thirty (30) days from the date the respondent or the respondent's counsel is served with the petition and order for response. If the court finds that exigent circumstances exist which warrant an earlier response, the court shall set forth those circumstances and the allowed time for response; and

(c) If the court dismisses the petition in part, the court may specify which issues and/or allegations remain at issue for response.

(3) If the court orders a response to a petition for writ of habeas corpus under this section, the respondent may file any responsive motion or pleading allowed by Idaho rules of civil procedure.

(4) Upon the filing of a responsive motion or pleading, a prisoner may file a reply to the response or the court may order a reply to the response on its own motion. The court should consider any reply filed only to the extent it is relevant to the issues and allegations raised in the original petition for writ of habeas corpus.

(5) The court should not grant a writ of habeas corpus or order an evidentiary hearing under this section unless, after reviewing the petition for writ of habeas corpus, the response and the reply, if any, the court finds that the prisoner's state or federal constitutional rights may have been violated relative to:

(a) Conditions of confinement;

(b) Revocation of parole;

(c) Miscalculation of his sentence;

(d) Loss of good time credits; or

(e) A detainer lodged against him.

If, after review under this subsection, the court finds that the allegations do not state a state or federal constitutional claim, the court may dismiss the petition without a hearing.

(6) If the court issues a writ of habeas corpus and sets the matter for evidentiary hearing, the following shall apply:

(a) The hearing shall be set as expeditiously as possible and may be at a place convenient for the court and the parties, including the institution where the prisoner is confined;

(b) The burden of proof during an evidentiary hearing pursuant to a petition for writ of habeas corpus lies with the prisoner; and

(c) As soon as possible after the conclusion of the hearing, the court shall enter its findings of fact and conclusions of law, and either dismiss the petition in part or in its entirety, or grant

injunctive relief consistent with this act.

19-4210. DISCOVERY IN HABEAS CORPUS PROCEEDINGS. (1) Discovery shall not ordinarily be permitted in habeas corpus cases.

(2) No discovery shall be permitted if the issues raised by the petition, the response or reply are wholly legal in nature.

(3) If factual issues are raised by the pleadings, the court may, upon motion, grant leave for discovery in accordance with Idaho rules of civil procedure.

(a) The party must file a motion for leave to conduct discovery, attaching a copy of the discovery sought.

(b) If the court finds that discovery is necessary to protect or defend a substantive state or federal constitutional right at issue, it shall enter an order tailored to allow discovery for that limited purpose.

19-4211. ISSUANCE OF WRIT OF HABEAS CORPUS. (1) Any court authorized under section 19-4202, Idaho Code, may grant a writ of habeas corpus pursuant to a petition filed by, or on behalf of a person not a prisoner under section 19-4207, Idaho Code, if it finds that the restraint of the person's liberty is illegal.

(2) Any court authorized under section 19-4202, Idaho Code, may grant a writ of habeas corpus and order a hearing pursuant to a petition filed by a prisoner, or on behalf of a prisoner under section 19-4207, Idaho Code, when:

(a) The court has considered the factual allegations contained in the petition together with any responsive pleading filed by the respondent, and a reply filed by the prisoner, if any;

(b) The court finds that the petitioner is likely to prevail on the merits of his state or federal constitutional challenge;

(c) The court finds that the petitioner will suffer irreparable injury if some relief is not granted;

(d) The court finds that the balance of potential harm to the petitioner substantially outweighs any legitimate governmental interest; and

(e) The court finds that equity favors granting relief to the petitioner.

(3) Any order granting the writ should issue without delay and a hearing should be scheduled. The court may provide a statement of the issues to be addressed, and whether evidence will be accepted.

(4) If a court issues an order granting the writ and setting the matter for hearing, the court may set the hearing at the state prison or county jail or other appropriate place.

19-4212. INJUNCTIVE RELIEF AVAILABLE TO A PERSON NOT A PRISONER. If a court finds that a person not a prisoner is being illegally restrained, the court may fashion appropriate injunctive relief to cure the illegality, including release.

19-4213. RELIEF AVAILABLE FOR CONSTITUTIONAL VIOLATIONS DURING THE COURSE OF REVOCATION OF PAROLE. (1) If a court finds that a prisoner's constitutional rights have been violated during the course of revocation of his parole, the court may, upon specific findings of

fact and conclusions of law, enter an order directing that the parole revocation proceedings be reconvened. The order shall identify the constitutional violation which occurred and direct that the violation be cured.

(2) The Idaho board of correction through the Idaho commission for pardons and parole has the exclusive authority to order release of a prisoner on parole pursuant to section 5, article X, of the constitution of the state of Idaho and sections 20-210 and 20-223, Idaho Code.

19-4214. RELIEF AVAILABLE FOR MISCALCULATION OF SENTENCE. (1) If, upon findings of fact and conclusions of law, a court finds that a prisoner's sentence has been miscalculated, the court may order the prisoner's sentence to be recalculated consistent with the court's findings and conclusions.

(2) The court may order the prisoner released under this section only if the prisoner would be entitled to release due to expiration of his sentence correctly calculated.

19-4215. RELIEF AVAILABLE FOR LOSS OF GOOD TIME CREDITS. (1) If the court finds that a prisoner has lost good time credits without constitutionally sufficient due process, the court may order a rehearing by the prison or jail authority.

(2) Any court order requiring rehearing shall specify:

(a) How due process was constitutionally insufficient and direct that the insufficiency be cured; and

(b) Provide that the prison or jail officials shall have not less than thirty (30) days in which to convene the rehearing.

(3) The prison or jail authority shall have the responsibility for the recalculation and restoration of good time credits. If good time credits are restored to the petitioner as a result of the rehearing, and restoration of good time credits entitles the petitioner to release, he shall be so released.

19-4216. RELIEF AVAILABLE FOR DETAINERS. (1) A prisoner may petition for writ of habeas corpus to challenge the legality of a detainer which has been lodged against him by another state under the interstate agreement on detainers, chapter 50, title 19, Idaho Code.

(2) The court may set a hearing on a petition for writ of habeas corpus to inquire into factual issues involving the legality of the detainer or the legality of delivery of the prisoner to the prosecuting state under the detainer. However, if the petition involves legal issues only, the court shall decide the matter without hearing consistent with section 19-4209, Idaho Code.

19-4217. INJUNCTIVE RELIEF AVAILABLE TO PRISONERS AND OTHER INSTITUTIONALIZED PERSONS IN CONDITIONS OF CONFINEMENT CASES. (1) If the court finds that a prisoner or other institutionalized person's constitutional rights have been violated involving conditions of confinement, the court may order injunctive relief consistent with and subject to the limitations set forth in this chapter.

(2) If the court concludes that injunctive relief is necessary to cure unconstitutional conditions of confinement, the court shall enter

an order subject to the following limitations:

- (a) Any order for injunctive relief shall be accompanied by specific findings of fact and conclusions of law;
- (b) Injunctive relief shall be narrowly drawn and extend no further than necessary to correct the violation of the constitutional right;
- (c) Injunctive relief must be the least intrusive means necessary to correct the constitutional violation;
- (d) The court shall give substantial weight to any adverse impact on public safety;
- (e) The court shall give substantial deference to the discretion of administrators of the institution;
- (f) The administrator of the institution shall be given all reasonable opportunities to correct state or federal constitutional errors made in the internal operations of the institution and shall be charged with the task of devising constitutionally sound modifications to their operations.

19-4218. TERMINATION OF INJUNCTIVE RELIEF ORDER OR DECREE IN CONDITIONS OF CONFINEMENT CASES. In any civil action with respect to conditions of confinement in which prospective relief is ordered or obtained pursuant to consent decree, the relief order or decree shall be terminated upon the motion of any party or intervenor:

- (1) Two (2) years after the date the court granted or approved the prospective relief;
- (2) One (1) year after the date the court has entered an order or decree denying termination of prospective relief under this section; or
- (3) In the case of an order issued on or before the date of enactment of this act, one (1) year after such date of enactment.

19-4219. IMMEDIATE TERMINATION OF ORDER OR DECREE FOR PROSPECTIVE RELIEF IN CONDITIONS OF CONFINEMENT CASES. (1) In any civil action with respect to conditions of confinement, the administrator of the institution or intervenor shall be entitled to the immediate termination of any prospective relief if the relief was approved or granted in the absence of an express finding by the court that the relief:

- (a) Is narrowly drawn;
 - (b) Extends no further than necessary to correct the violation of the constitutional right; and
 - (c) Is the least intrusive means necessary to correct the violation of the constitutional right.
- (2) Prospective relief shall not terminate if the court makes written findings based on the record that the prospective relief:
- (a) Remains necessary to correct a current or ongoing violation of the constitutional right;
 - (b) Extends no further than necessary to correct the violation of the constitutional right;
 - (c) Is narrowly drawn; and
 - (d) Is the least intrusive means to correct the violation.
- (3) Nothing in this section shall prevent the administrator of the institution or intervenor from seeking modification or termination

before the relief is terminable under subsection (1) or (2) of this section to the extent that modification or termination would otherwise be legally permissible.

19-4220. SETTLEMENTS AND CONSENT DECREES IN CONDITIONS OF CONFINEMENT CASES. (1) In any civil action with respect to conditions of confinement, the court shall not enter or approve a settlement or consent decree unless it complies with the limitations on relief set forth in section 19-4217, Idaho Code.

(2) This section, together with sections 19-4217, 19-4218 and 19-4219, Idaho Code, applies to all settlements or consent decrees in effect at the time of passage of this act. Any settlement or consent decree entered into before enactment of this act shall not be construed as a waiver of the application of this section by any party to the settlement or consent decree, and may be terminated consistent with sections 19-4218 and 19-4219, Idaho Code.

19-4221. SUCCESSIVE CLAIMS. In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding if the prisoner has, on two (2) or more prior occasions, while incarcerated or detained in any prison, jail or other correctional facility, brought an action or appeal in a court of this state that was dismissed on any ground set forth in section 19-4209(1)(a) through (d), Idaho Code, unless:

(1) The prisoner first obtains leave from the district court having jurisdiction over the case; or

(2) The prisoner's action or petition is submitted for filing by an attorney licensed to practice law in the state of Idaho.

19-4222. PRIOR SHOWING OF PHYSICAL INJURY OR MENTAL ILLNESS REQUIRED. No civil action may be brought by a prisoner confined in a jail, prison or other correctional facility for mental or emotional injury suffered while in custody without a prior showing of either:

(1) Physical injury; or

(2) Diagnosed severe and disabling mental illness.

19-4223. RIGHT OF ACCESS TO COURT NOT EXPANDED. Nothing in this chapter shall be construed to expand the right of access to courts for institutionalized persons under federal or state law.

19-4224. EXCLUSIVE REMEDY. This chapter sets forth the exclusive procedures and remedies in habeas corpus actions.

19-4225. LIBERTY INTEREST NOT CREATED. Nothing in this chapter shall be construed to create a liberty interest.

19-4226. SEVERABILITY. The provisions of this act are declared to be severable and if any provision of this act or the application of a provision to any person or circumstance is declared invalid for any reason, the declaration shall not affect the validity of the remaining portions of this act.

Approved March 26, 1999.

CHAPTER 377

(H.B. No. 242, As Amended, As Amended)

AN ACT

RELATING TO THE RIGHT TO FARM ACT; AMENDING SECTION 22-4502, IDAHO CODE, TO FURTHER DEFINE TERMS; AND AMENDING SECTION 22-4503, IDAHO CODE, TO PROVIDE THAT IN THE EVENT OF AN ALLEGED NUISANCE RESULTING FROM AGRICULTURAL OPERATIONS PURSUANT TO A FEDERAL OR STATE ENVIRONMENTAL PERMIT OR CAUSED BY A VIOLATION OF THE PERMIT(S), TERMS OR CONDITIONS, THE AFFECTED PARTY SHALL SEEK ENFORCEMENT OF THE TERMS OF THE PERMIT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 22-4502, Idaho Code, be, and the same is hereby amended to read as follows:

22-4502. DEFINITIONS. As used in this chapter:

(1) "Agricultural operation" includes, without limitation, any facility for the growing, raising or production of agricultural, horticultural and viticultural crops and vegetable products of the soil, poultry and poultry products, livestock, field grains, seeds, hay, apiary and dairy products, and the processing for commercial purposes of livestock or agricultural commodities, including the processing of such commodities into food commodities.

(2) "Nonagricultural activities," for the purposes of this chapter, means residential, commercial or industrial property development and use not associated with the production of food commodities.

(3) "Improper or negligent operation" means that the agricultural operation is not undertaken in conformity with federal, state and local laws and regulations or permits, and adversely affects the public health and safety.

SECTION 2. That Section 22-4503, Idaho Code, be, and the same is hereby amended to read as follows:

22-4503. AGRICULTURAL OPERATION NOT A NUISANCE -- EXCEPTION. No agricultural operation or an appurtenance to it shall be or become a nuisance, private or public, by any changed conditions in or about the surrounding nonagricultural activities after the same has been in operation for more than one (1) year, when the operation was not a nuisance at the time the operation began; provided, that the provisions of this section shall not apply whenever a nuisance results from the improper or negligent operation of any agricultural operation or an appurtenance to it. In the event of an alleged nuisance resulting from agricultural operations pursuant to a federal or state environmental permit or caused by a violation of the permit(s), terms or conditions, the affected party shall seek enforcement of the terms of the permit.

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 26, 1999.

CHAPTER 378
(H.B. No. 243)

AN ACT

RELATING TO THE REGULATION OF SMOKE MANAGEMENT AND CROP RESIDUE DISPOSAL; REPEALING CHAPTER 23, TITLE 39, IDAHO CODE; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 48, TITLE 22, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE FINDINGS AND INTENT, TO DEFINE TERMS, TO PROVIDE FOR INSTANCES WHEN BURNING OF CROP RESIDUE IS ALLOWED AND TO PROVIDE FOR A SPECIFIC PROGRAM FOR BENEWAH AND KOOTENAI COUNTIES.

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

SECTION 1. That Chapter 23, Title 39, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 48, Title 22, Idaho Code, and to read as follows:

CHAPTER 48
SMOKE MANAGEMENT AND CROP RESIDUE DISPOSAL

22-4801. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that the current knowledge and technology support the practice of burning crop residue to control disease, weeds, pests, and to enhance crop rotations. It is the intent of the legislature to promote agricultural activities. Currently some of those activities include crop residue burning. The director of the Idaho department of agriculture may promulgate rules relating to crop residue burning under this chapter. Further, the legislature encourages the Idaho department of agriculture and the Idaho department of health and welfare, division of environmental quality to cooperate with the agricultural community and establish voluntary smoke management and crop residue burning programs. The legislature encourages the Idaho department of agriculture and the agricultural community to pursue alternative means to crop residue disposal. Nothing in this chapter shall prohibit the Idaho department of health and welfare, division of environmental quality from enforcing the environmental protection and health act, chapter 1, title 39, Idaho Code, and the rules promulgated pursuant thereto, as they relate to air quality and protection of the state and national ambient air quality standards.

22-4802. DEFINITIONS. In this chapter:

(1) "Adequate smoke dispersion" means that favorable meteorological and air quality conditions exist to allow crop residue burning to occur without endangering ambient air quality standards.

(2) "Cereal grain field" means a field of grass cultivated for edible seeds such as wheat, oats, barley, rye, rice, maize, grain, sorghum and proso millet.

(3) "Crop residue" means any vegetative material remaining in the field after harvest and shall not include weeds along ditch banks or waterways, orchard prunings, or forest slash piles.

(4) "Department" means the Idaho department of agriculture.

(5) "DEQ" means the Idaho department of health and welfare, division of environmental quality.

(6) "Director" means the director of the Idaho department of agriculture.

(7) "Field grass" or "forage grass field" means a field which has been planted with one (1) of the following varieties of grass for the purpose of producing seed: canary grass, bromegrass, oat grass, Timothy grass, wheat grass, or orchard grass.

(8) "Person" means a natural person, individual, firm, partnership, corporation, company, society, association, cooperative, two (2) or more persons having a joint or common interest, or any unit or agency of local, state or federal government.

(9) "Reasonable efforts" means, but is not limited to, the obtaining of any available information on local meteorological and air quality conditions and observing the smoke plume from small test fires or from other field burns.

(10) "Turf grass field" means a field which has been planted with one (1) of the following varieties of grass for the purpose of producing seed: bluegrass, bent grass, fescues or perennial ryegrass.

22-4803. AGRICULTURAL FIELD BURNING. (1) The open burning of crop residue grown in agricultural fields shall be an allowable form of open burning when the provisions of this chapter, and any rules promulgated pursuant thereto, and the environmental protection and health act, and any rules promulgated pursuant thereto, are met, and when no other agricultural viable alternatives to burning are available, as determined by the director, for the purpose of:

(a) Disposing of crop residues;

(b) Developing physiological conditions conducive to increased crop yields; or

(c) Controlling diseases, insects, pests or weed infestations.

(2) The following provisions shall apply to all agricultural field burning:

(a) Any person conducting crop residue burning must make every reasonable effort to burn only when weather conditions are conducive to adequate smoke dispersion, and the burning does not emit particulates or other material which exceed the state and federal ambient air quality standards; and

(b) The open burning of crop residue shall be conducted in the field where it was generated.

(3) In Kootenai and Benewah counties, the legislature finds that there are a great many cereal grain, field grass, forage grass, and

turf grass fields, and it is a practice to burn these fields to control disease, weeds and pests in these counties. Therefore, in Kootenai and Benewah counties, no person shall conduct or allow any crop residue burning without first registering each field with the DEQ each year burning is conducted. Approved forms for registering fields when needed may be obtained at the DEQ's Coeur d'Alene office. This provision is not met unless the forms contain all required information and are received by the DEQ prior to field ignition.

(4) The use of reburn machines, propane flamers, or other devices to ignite or reignite a field for the purpose of crop residue burning shall be considered an allowable form of open burning when the provisions of this chapter, and any rules promulgated pursuant thereto, the environmental protection and health act, and any rules promulgated thereto, are met.

22-4804. KOOTENAI AND BENEWAH COUNTIES -- AGRICULTURAL BURNING FEES -- ACCOUNT -- RULES -- RESEARCH -- MANAGEMENT PROGRAM. (1) Any person who registers a field with the DEQ for agricultural burning in Kootenai or Benewah counties shall pay to the DEQ a fee of one dollar (\$1.00) per acre of cropland to be burned. The DEQ shall remit all fees monthly to the state treasurer, who shall deposit the moneys in the state agricultural smoke management account which is hereby created. The board of health and welfare may, upon the recommendation of the DEQ, adopt rules pertaining to:

(a) Collection, handling, and refund of fees established in subsection (1) of this section; and

(b) Disbursement of funds from the account as provided in subsection (2) of this section.

(2) The DEQ may use moneys from the agricultural smoke management account as appropriated annually by the legislature for:

(a) Research to:

(i) Develop alternative crops which do not require burning;

(ii) Improve burning and cultural practices for crops which may require burning; and

(iii) Explore alternatives to burning; and

(b) Supplementation of appropriated general account moneys for implementation of agricultural smoke management programs referenced in section 22-4801, Idaho Code.

(3) A smoke management advisory board is established in the DEQ to advise the DEQ administrator or his designee in the administration and enforcement of the provisions of this section by overseeing the funds provided and to review and recommend research programs. The board shall consist of six (6) members: three (3) from the agricultural community and three (3) nonagriculturists from the general public, appointed by the governor and to serve at the pleasure of the governor. The seventh member shall be ex officio and shall be the administrator of the DEQ or his designee.

(4) The board shall, on the first day of each July or as soon thereafter as practicable, elect a chairman and a vice chairman from among its members, and these officers shall hold office until their successors are elected. As soon as the board has elected its officers, the secretary shall certify the results of the election to the administrator of the DEQ. The chairman shall preside at all meetings of the

board and the secretary shall make a record of the proceedings which shall be preserved in the offices of the DEQ. If the chairman is absent from any meeting of the board, his duties shall be discharged by the vice chairman. All members of the board present at a meeting shall be entitled to vote on any question, matter, or thing which properly comes before it.

Approved March 26, 1999.

CHAPTER 379

(H.B. No. 257, As Amended, As Amended)

AN ACT

RELATING TO LICENSURE OF ACUPUNCTURE; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 47, TITLE 54, IDAHO CODE, TO STATE LEGISLATIVE PURPOSE, TO DEFINE TERMS, TO REQUIRE A LICENSE TO PRACTICE ACUPUNCTURE, TO ESTABLISH A BOARD OF ACUPUNCTURE, TO PROVIDE POWERS AND DUTIES OF THE BOARD, TO SPECIFY REQUIREMENTS FOR LICENSURE, TO PROVIDE REQUIREMENTS FOR CERTIFICATION, TO SPECIFY REQUIREMENTS FOR AN ACUPUNCTURE TECHNICIAN CERTIFICATE, TO AUTHORIZE WAIVER OF REQUIREMENTS, TO PROVIDE FOR LICENSE AND CERTIFICATION EXPIRATION AND RENEWAL, TO PROVIDE FOR SUSPENSION OR REVOCATION, TO SPECIFY USE OF TITLES AND TO PROVIDE PENALTIES.

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 47, Title 54, Idaho Code, and to read as follows:

CHAPTER 47 ACUPUNCTURE

54-4701. PURPOSE. The legislature finds and declares that the provision of acupuncture services affects the public health, safety and welfare. The legislature further finds that it is in the public interest to aid in the provision of acupuncture services of high quality to the people of Idaho. To aid in fulfilling these purposes, this chapter provides for the licensure and regulation of acupuncturists within the state of Idaho.

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

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

nutritional treatments, therapeutic exercise and other therapies based on traditional and modern Oriental medical theory.

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

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

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

(a) surgery; or

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

54-4703. LICENSE REQUIRED. (1) From and after the 1st day of July, 1999, it is unlawful for any person to practice acupuncture in this state without, at such time being licensed or certified pursuant to this chapter; provided however, the provisions of this chapter shall not apply to persons licensed pursuant to chapter 18, title 54, Idaho Code, but such persons may seek licensure or certification pursuant to this chapter on a voluntary basis.

(2) No person shall use any title, designation, words, letters, abbreviations, or sign, card or device which indicates to the public that such person may practice acupuncture in any form or has been issued a license or been certified pursuant to this chapter unless the person is so licensed or certified, has been issued such license or certification, and the license or certification is in good standing pursuant to rules of the board.

(3) A person who meets NCCAOM eligibility criteria for certification shall be considered by the board as meeting the requirements for licensure pursuant to this chapter. This provision shall be effective until one (1) year after the effective date of this act. Thereafter all applicants for licensure must meet the licensing requirement of this chapter.

(4) A person who meets the requirements for full or associate membership of the American academy of medical acupuncture, or for fellowship of the international academy of medical acupuncture, inc., shall be considered by the board as meeting the requirements for certification pursuant to this chapter. This provision shall be effective until one (1) year after the effective date of this act. Thereafter all applicants for certification must meet the certification requirement of this chapter.

54-4704. BOARD OF ACUPUNCTURE CREATED -- APPOINTMENT -- TERMS.

(1) There is hereby established in the department of self-governing agencies a state board of acupuncture and the members thereof shall be appointed by the governor within sixty (60) days following the effective date of this chapter.

(2) The board shall consist of five (5) members, three (3) of whom shall be licensed pursuant to this chapter, one (1) of whom shall be certified pursuant to this chapter, and one (1) of whom shall be a member of the public with an interest in the rights of the consumers of acupuncture services.

(3) In making appointments to the board of acupuncture, consideration shall be given to recommendations made by the Idaho acupuncture association, other similar professional organizations and individual acupuncturists and physicians.

(4) All members of the board shall be current residents of the state of Idaho and have been residents of the state of Idaho for a minimum of three (3) years immediately preceding appointment.

(5) The initial three (3) licensed acupuncturist members of the board shall be persons who are eligible to become licensed pursuant to this chapter, and who shall, within thirty (30) days of their appointment, become licensed pursuant to this chapter. The certified acupuncturist member shall be a person with sufficient qualification to be eligible for certification pursuant to this chapter and shall, within thirty (30) days of appointment, become certified.

(6) The initial board shall be appointed for staggered terms, the longer of which shall not exceed four (4) years. After the initial appointments, all terms shall be four (4) years, and a member may be reappointed. In the event of death, resignation, or removal of any member before the expiration of the term to which appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(7) The governor may remove any member of the board for cause, prior to the expiration of the member's term.

(8) The board shall, within thirty (30) days after its appointment, and at least annually thereafter, hold a meeting and elect a chairman. The board may hold additional meetings on the call of the chairman or at the written request of any two (2) members of the board. The board may appoint such committees as it considers necessary to carry out its duties. A majority of the members of the board shall constitute a quorum.

(9) Each member of the board shall be compensated as provided in section 59-509(h), Idaho Code.

54-4705. BOARD OF ACUPUNCTURE -- POWERS AND DUTIES -- FUNDS. (1) The board shall have the authority to:

(a) Determine the qualifications of persons applying for licensure, certification and acupuncture technician certificates pursuant to this chapter and define, by rule, the appropriate scope of acupuncture services that may be rendered to the public in this state;

(b) Hire or appoint employees, including an executive director, investigators, attorneys, consultants and independent hearing examiners;

(c) Establish, pursuant to the administrative procedures act, such rules as are necessary for the administration of this chapter, including standards for professional conduct that reflect current practice standards and promote inclusion of innovations and advances in acupuncture;

(d) Conduct investigations and examinations and hold hearings;

(e) Collect fees and other funds as prescribed by this chapter;

(f) Contract, sue and be sued, and pursue other matters lawful in this state;

(g) Provide such other services and perform such other functions

as are necessary and desirable to fulfill its purposes.

(2) There is hereby created the board of acupuncture fund in the state treasury where all funds received pursuant to the provisions of this chapter shall be deposited. All costs and expenses incurred by the board under the provisions of this chapter shall be a charge against and paid from said fund for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter. In no instance shall the state board of acupuncture fund be obligated to pay any claims which, in aggregate with claims already allowed, exceed the income to the state board of acupuncture fund which has been derived from the application of this chapter. Money paid into the state board of acupuncture fund pursuant to this chapter is hereby continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board in carrying out and enforcing the provisions of this chapter.

54-4706. REQUIREMENTS FOR LICENSURE. A person applying for a license shall, in addition to paying all required fees, submit a written application provided by the board showing to the satisfaction of the board that such person meets the following requirements:

(1) Has successfully completed the requirements to be a candidate for NCCAOM certification, or such other similar requirements as have been approved by the board; and

(2) Has successfully completed an acupuncture internship or pre-professional practice program, coordinated program, or such other equivalent experience as may be approved by the board; and

(3) Has passed an examination or other demonstration of proficiency as may be uniformly required by the board for other similarly qualified applicants for licensure.

54-4707. REQUIREMENTS FOR CERTIFICATION. A person applying for a certification shall, in addition to paying all required fees, submit a written application provided by the board showing to the satisfaction of the board that such person meets the following requirements:

(1) Has successfully completed the requirements for full membership in the American academy of medical acupuncture, fellowship in the international academy of medical acupuncture, inc., or such other comparable requirements as have been approved by the board; and

(2) Has passed an examination or other demonstration of proficiency as may be uniformly required by the board for other similarly qualified applicants for certification.

54-4708. ACUPUNCTURE TECHNICIAN CERTIFICATE. (1) A person may apply for an acupuncture technician certificate by, in addition to paying all required fees, submitting a written application provided by the board and showing to the satisfaction of the board that such person meets the following requirements:

(a) Completion of the requirements for clinical technician certificate by the international academy of medical acupuncture, inc., or such other comparable requirements as are approved by the board; and

(b) Passed a clean needle technique course that has been approved by the board; and

(c) Passed an examination or other demonstration of proficiency as may be uniformly required for other similarly qualified applicants for an acupuncture technician certificate.

(2) In approving an acupuncture technician certificate the board shall consider the scope and extent of the applicant's academic and other training and experience in health care and may, for each individual acupuncture technician:

(a) Require supervision by a person licensed or certified pursuant to this chapter;

(b) Restrict the practice of acupuncture for the acupuncture technician to specified therapies or treatments.

54-4709. WAIVER OF REQUIREMENTS. The board may waive the requirements of section 54-4706, Idaho Code, and grant a license to any applicant who shall present proof of current licensure to engage in the practice of acupuncture in another state, the District of Columbia, or territory of the United States which requires standards for licensure considered by the board to be equivalent to the requirements for licensure pursuant to this chapter.

54-4710. EXPIRATION AND RENEWAL. (1) A license or certification issued under the provisions of this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the rules of the board, upon payment of a renewal fee.

(2) The board shall establish the following fees relating to licensing, which fees shall be established in an amount that is sufficient to defray all costs necessary for the administration of this chapter:

(a) Initial license;

(b) Renewal of license fee;

(c) Initial fee for certification;

(d) Initial acupuncture technician certificate;

(e) Renewal acupuncture technician certificate;

(f) Inactive license and certification fees;

(g) Late renewal fees.

54-4711. SUSPENSION AND REVOCATION. To protect the health, safety and welfare of the public, the board, in accordance with the requirements of chapter 52, title 67, Idaho Code, may refuse to issue a license or certification, refuse to renew a license or certification, or may suspend or revoke a license or certification, under such conditions as the board may determine, if the applicant or holder of the license or certification:

(1) Has been convicted of a felonious act, or crime involving moral turpitude;

(2) Obtained a license or permit pursuant to this chapter by means of fraud, misrepresentation or concealment of material facts;

(3) Endangered the health of any person engaging in the practice of acupuncture in a manner which does not meet the generally accepted standards for the practice of acupuncture within the state of Idaho;

(4) Has failed to maintain the confidentiality of records or other information pertaining to an identifiable client, except as required or authorized by law;

(5) Engaged in any conduct that constitutes an abuse or exploitation of a client arising out of the trust and confidence placed in the acupuncturist by the client.

54-4712. TITLES. Persons licensed pursuant to this chapter may use the title "licensed acupuncturist." Persons certified or granted an acupuncture technician certificate pursuant to this chapter may use the title "certified acupuncturist" or "acupuncture technician" respectively, but may not use the title "licensed acupuncturist" or "doctor," or any abbreviation thereof, unless the acupuncturist is otherwise authorized to use such title. No person authorized to practice acupuncture pursuant to this chapter may hold himself out in any way as a medical physician, doctor of osteopathy, chiropractor, physical therapist or other health care professional unless the person is properly authorized for such practice pursuant to law.

54-4713. PENALTIES. (1) A person who violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor.

(2) The board may seek injunction against any person who practices acupuncture in violation of this chapter and may, in the event a permanent injunction is entered against such person or plea or verdict of guilty is entered in any criminal matter, impose a civil penalty in the amount of all costs and fees incurred by the board in prosecuting the matter.

(3) The representation to another person that a person is licensed or holds certification pursuant to this chapter, when such representation is untrue, constitutes the using of a method, act, or practice which is declared to be unlawful under the provisions of chapter 6, title 48, Idaho Code.

Approved March 26, 1999.

CHAPTER 380
(H.B. No. 266)

AN ACT

RELATING TO THE SEX OFFENDER REGISTRATION NOTIFICATION AND COMMUNITY RIGHT TO KNOW ACT; AMENDING SECTION 18-8316, IDAHO CODE, TO REQUIRE A PSYCHOSEXUAL EVALUATION OF AN OFFENDER UPON CONVICTION IF ORDERED BY THE COURT.

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

SECTION 1. That Section 18-8316, Idaho Code, be, and the same is hereby amended to read as follows:

18-8316. REQUIREMENT FOR PSYCHOSEXUAL EVALUATIONS UPON CONVICTION. If ordered by the court, aan 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 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.

Approved March 26, 1999.

CHAPTER 381
(H.B. No. 285)

AN ACT

RELATING TO LIMITATIONS ON BUDGET REQUESTS; AMENDING SECTION 63-802, IDAHO CODE, TO PROVIDE FOR AN ELECTION WITHIN A LIBRARY DISTRICT TO ALLOW THE LIBRARY DISTRICT TO INCREASE ITS BUDGET FROM PROPERTY TAX SOURCES, TO PROVIDE WHEN THE ELECTION MAY BE HELD AND TO PROVIDE THE REQUIRED MAJORITY; AND DECLARING AN EMERGENCY.

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; or

(g) A library district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized in section 33-2724, Idaho Code. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November dates provided by section 34-106, Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the 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.

Approved March 26, 1999.

CHAPTER 382
(H.B. No. 293)

AN ACT

RELATING TO THE PROPERTY OWNER'S EXEMPTION FROM TAXATION; AMENDING SECTION 63-602G, IDAHO CODE, TO PROVIDE THAT THE EXEMPTION SHALL BE AVAILABLE TO AN OWNER WHO IS A GRANTOR OF AN IRREVOCABLE TRUST, A PARTNER OF A LIMITED PARTNERSHIP, A MEMBER OF A LIMITED LIABILITY COMPANY OR SHAREHOLDER OF A CORPORATION; AND AMENDING SECTION 63-701, IDAHO CODE, TO REDEFINE "OWNER," TO PROVIDE A CORRECT CITATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-602G, Idaho Code, be, and the same is hereby amended to read as follows:

63-602G. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS. (1) During the tax year 1983 and each year thereafter, the first fifty thousand dollars (\$50,000) of the market value for assessment purposes of residential improvements, or fifty percent (50%) of the market value for assessment purposes of residential improvements, whichever is the lesser, shall be exempt from property taxation.

(2) The exemption allowed by this section may be granted only if:

(a) The residential improvements are owner-occupied and used as the primary dwelling place of the owner as of January 1. The residential improvements may consist of part of a multidwelling or multipurpose building and shall include all of such dwelling or building except any portion used exclusively for anything other than the primary dwelling of the owner. The presence of an office in an owner-occupied residential property, which office is used for multiple purposes, including business and personal use, shall not prevent the owner from claiming the exemption provided in this section; and

(b) The tax commission has certified to the board of county commissioners that all properties in the county which are subject to appraisal by the county assessor have, in fact, been appraised uniformly so as to secure a just valuation for all property within the county; and

(c) The owner has certified to the county assessor by April 15 that:

(i) He is making application for the exemption allowed by this section;

(ii) That the residential improvements are his primary dwelling place; and

(iii) That he has not made application in any other county for the exemption, and has not made application for the exemption on any other residential improvements in the county.

(d) For the purpose of this section, the definition of owner shall be the same definition set forth in section 63-701(8), Idaho Code.

When an "owner" is any person who as grantor created a revocable or irrevocable trust and named himself or herself as beneficiary of that trust, or who is a partner of a limited partnership, a member of a limited liability company or shareholder of a corporation, he or she may provide proof of the revocable trust, limited partnership, limited liability company or corporation with an affidavit stating: (i) the name of the grantor, partner, member or shareholder; (ii) a statement that the grantor is the beneficiary of the trust, the person is a partner of the limited partnership, a member of the limited liability company or shareholder of the corporation; and (iii) the trust is revocable during the grantor's lifetime; and (iv) the grantor, partner, member or shareholder is the owner-occupier of the residential property and uses the property as the primary dwelling place of the owner as of January 1.

The affidavit shall include the attaching of the copies of those portions of the trust which set forth the grantor, the grantor as beneficiary, ~~the revocable character of the trust~~ and the signature page of the trust; those portions of the articles of organization or operating agreement of the limited liability company indicating the person's membership in the company; those portions of the limited partnership agreement or other records of the limited partnership indicating that the person has been admitted to the partnership; or those portions of the articles of incorporation indicating that the person is a shareholder of the corporation.

(e) Any owner may request in writing the return of all copies of any ~~revocable trust created by the owner~~ documents submitted with the affidavit set forth in paragraph (d) of this subsection that are held by a county assessor, and the copies shall be returned by the county assessor upon submission of the affidavit ~~set forth in paragraph (d) of this subsection~~ in proper form.

(f) For the purpose of this section, the definition of "primary dwelling place" shall be the same definition set forth in section 63-701(9), Idaho Code.

(g) For the purpose of this section, the definition of "occupied" shall be the same definition set forth in section 63-701(7), Idaho Code.

(3) An owner need only make application for the exemption described in subsection (1) of this section once, as long as all of the following conditions are met:

(a) The owner has received the exemption during the previous year as a result of his making a valid application as defined in subsection (2)(c) of this section.

(b) The owner still occupies the same residential improvements for which he made application.

(c) The residential improvements described in subsection (3)(b) of this section are owner-occupied and used as the primary dwelling place of the owner as of January 1.

(4) The exemption allowed by this section must be taken before the reduction in taxes provided by sections 63-701 through 63-710, Idaho Code, is applied.

(5) The legislature declares that this exemption is necessary and

just.

(6) Residential improvements having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to the owner's absence in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the internal revenue code. If an owner fails to timely apply for exemption as required in this section solely by reason of active duty in a designated combat zone, as defined in section 112 of the internal revenue code, and such improvements would have otherwise qualified under this section, then the board of county commissioners of the county in which the residential improvements are located shall refund property taxes, if previously paid, in an amount equal to the exemption which would otherwise have applied.

SECTION 2. 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 veterans¹ 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 or irrevocable trust and named himself as beneficiary of that trust, or who is a partner of a limited partnership, member of a limited liability company or shareholder of a corporation which holds title in fee simple or holds a certificate of motor vehicle title and who has retained or been granted a life estate. "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(156), Idaho Code, or a dwelling other than the one (1) 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 26, 1999.

CHAPTER 383

(H.B. No. 335, As Amended in the Senate, As Amended in the Senate)

AN ACT

RELATING TO MOTOR CARRIERS; AMENDING SECTION 39-4426, IDAHO CODE, TO REMOVE THE RESPONSIBILITY OF EMPLOYEES OF THE DEPARTMENT OF HEALTH

AND WELFARE FOR THE COLLECTION OF FEES AND PERMITS AS AGENTS OF THE IDAHO TRANSPORTATION DEPARTMENT AND THE PUBLIC UTILITIES COMMISSION AND TO PROVIDE CORRECT CODE CITATIONS; AMENDING SECTION 40-510, IDAHO CODE, TO DELETE REFERENCE TO CHAPTER 8, TITLE 61, IDAHO CODE, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-104, IDAHO CODE, TO DEFINE "CERTIFICATION OF SAFETY COMPLIANCE" AND "COMPLIANCE REVIEW" AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-114, IDAHO CODE, TO DEFINE "MOTOR CARRIER" AND TO DELETE REFERENCE TO A REPEALED CODE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 2, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-201B, IDAHO CODE, TO PROVIDE AUTHORITY TO THE BOARD TO ENTER INTO BASE STATE AGREEMENTS FOR REGISTRATION OF INTERSTATE MOTOR CARRIERS; AMENDING SECTION 49-202, IDAHO CODE, TO PROVIDE A FEE FOR CERTIFICATION OF MOTOR CARRIER SAFETY AND INSURANCE PROGRAMS, TO PROVIDE FOR DISPOSITION OF THE FEE, TO DELETE REFERENCE TO CHAPTER 8, TITLE 61, IDAHO CODE, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-401B, IDAHO CODE, TO DELETE REFERENCE TO CHAPTER 8, TITLE 61, IDAHO CODE, TO DELETE REFERENCE TO REGULATION OF MOTOR CARRIERS BY THE PUBLIC UTILITIES COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-1229, IDAHO CODE, TO DELETE REFERENCE TO REGULATION OF MOTOR CARRIERS BY THE PUBLIC UTILITIES COMMISSION, TO CLARIFY THE REQUIREMENT THAT MOTOR CARRIERS SHALL MAINTAIN LIABILITY INSURANCE AND TO PROVIDE A CORRECT CODE CITATION; AMENDING CHAPTER 12, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1233, IDAHO CODE, TO REQUIRE MOTOR CARRIERS TO PROVIDE PROOF OF FINANCIAL RESPONSIBILITY TO THE IDAHO TRANSPORTATION DEPARTMENT AS A CONDITION OF MOTOR CARRIER REGISTRATION, TO REQUIRE INSURANCE CARRIERS TO FILE NOTICE WITH THE DEPARTMENT BEFORE THERE IS A TERMINATION OR REDUCTION IN COVERAGE, TO PROVIDE EXEMPTIONS AND TO AUTHORIZE PROMULGATION OF RULES BY THE IDAHO TRANSPORTATION BOARD; AMENDING SECTION 49-2206, IDAHO CODE, TO PROVIDE A CORRECT CODE CITATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-2431, IDAHO CODE, TO DELETE REFERENCE TO REGULATION OF MOTOR CARRIERS BY THE PUBLIC UTILITIES COMMISSION; REPEALING SECTIONS 61-335 AND 61-337, IDAHO CODE; REPEALING CHAPTER 8, TITLE 61, IDAHO CODE; AMENDING SECTION 61-1001, IDAHO CODE, TO DELETE REFERENCE TO REGULATION OF MOTOR CARRIERS BY THE PUBLIC UTILITIES COMMISSION; AMENDING SECTIONS 61-1002, 61-1008 AND 61-1009, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO DELETE REFERENCE TO MOTOR CARRIERS; AMENDING SECTION 61-1118, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF ADMINISTRATIVE FEES COLLECTED BY THE PUBLIC UTILITIES COMMISSION; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2901A, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF LAW ENFORCEMENT TO CONDUCT SAFETY INSPECTIONS AND COMPLIANCE REVIEWS OF MOTOR CARRIERS, TO PROVIDE RULEMAKING AUTHORITY AND TO PROVIDE A PENALTY; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2901B, IDAHO CODE, TO PROVIDE FOR INSPECTION OF MOTOR CARRIERS AND TO PROVIDE EXEMPTIONS; AMENDING SECTION 67-2905, IDAHO CODE, TO PROVIDE AUTHORITY TO THE IDAHO STATE POLICE FOR ENFORCEMENT OF FEDERAL AND STATE MOTOR CARRIER LAWS, REGULATIONS AND RULES; AND AMENDING SECTION 67-2917, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 39-4426, Idaho Code, be, and the same is hereby amended to read as follows:

39-4426. APPOINTMENT OF HEALTH INSPECTORS. (1) The department of health and welfare shall assign a sufficient number of employees and equipment to inspect hazardous waste facilities or sites permitted under section 39-4409, Idaho Code, and located in Idaho where disposal of hazardous waste occurs for the purpose of assuring the protection of the health and safety of the public by monitoring the receipt and handling of hazardous wastes which have been transported by common carrier.

(2) ~~The employees of the department of health and welfare designated in subsection (1) of this section shall be agents of the Idaho transportation department and the public utilities commission for the purpose of collecting regulatory and registration fees pursuant to sections 61-811 and 61-812, Idaho Code, and for collecting fees and permits pursuant to chapter 4, title 49, Idaho Code, which fees have not otherwise been lawfully paid by transporters to the public utilities commission, the Idaho transportation department or a county assessor in this state and for issuing permits pursuant to section 49-22202, Idaho Code. All moneys collected by the department's employees as agents of the Idaho transportation department and the public utilities commission shall be remitted to the state treasurer for deposit in the proper account as provided by law.~~

(3) All employees of the department designated pursuant to subsection (1) of this section shall alert proper authorities or peace officers regarding violations pursuant to this chapter, violations pursuant to ~~title 61, Idaho Code, and violations pursuant to title 49, Idaho Code, and violations to any rules and regulations issued pursuant to any of the aforementioned code sections 67-2901A, Idaho Code.~~

(3) All actions brought for violations of the provisions of this chapter or rules and regulations promulgated pursuant thereto shall be brought as provided for in this chapter. All actions brought for violations of the provisions of ~~title 61, Idaho Code, or of title 49, Idaho Code, shall be brought as provided in those that titles.~~

SECTION 2. That Section 40-510, Idaho Code, be, and the same is hereby amended to read as follows:

40-510. PORTS OF ENTRY OR CHECKING STATIONS ESTABLISHED -- MOTOR VEHICLE INVESTIGATOR ACTIVITIES -- AUTHORITY OF THE BOARD TO EMPLOY INDIVIDUALS. (1) To augment and help make more efficient and effective the enforcement of certain laws of the state of Idaho, the Idaho transportation department is hereby authorized and directed to establish from time to time temporary or permanent ports of entry or checking stations upon any highways in the state of Idaho, at such places as the Idaho transportation department shall deem necessary and advisable.

(2) The board is authorized to appoint and employ individuals who shall have limited peace officer authority for the enforcement of such motor vehicle related laws as are herein specified:

- (a) Sections 18-3906 and 18-8001, Idaho Code;
- (b) Sections 25-1105 and 25-1182(2), Idaho Code;
- (c) Sections 40-510 through 40-514, Idaho Code;
- (d) Chapters 1 through 5, 9, 10, 11, 15 through 19, 22 and 24, title 49, sections 49-619, 49-660, 49-1407, 49-1418 and 49-1427 through 49-1430, Idaho Code; and
- (e) ~~Chapter 8, title 61, Idaho Code; and~~
- (f) Sections 63-2438, 63-2440, 63-2441 and 63-2443, Idaho Code.

(3) Motor vehicle investigators shall have the authority to access confidential vehicle identification number information.

(4) Any employee so appointed shall have the authority to issue misdemeanor traffic citations in accordance with the provisions of section 49-1409, Idaho Code, and infraction citations in accordance with the provisions of chapter 15, title 49, Idaho Code.

(5) No employee of the department shall carry or use a firearm of any type in the performance of his duties unless specifically authorized in writing by the director of the department of law enforcement to do so.

(6) The board is authorized to extend the authority as provided in this section to authorized employees of contiguous states upon approval of a bilateral agreement according to the provisions of section 40-317, Idaho Code.

SECTION 3. That Section 49-104, Idaho Code, be, and the same is hereby amended to read as follows:

49-104. DEFINITIONS -- C.

(1) "Cancellation of driver's license" means the annulment or termination by formal action of the department of a person's driver's license because of some error or defect in the driver's license or because the licensee is no longer entitled to the driver's license. The cancellation of a driver's license is without prejudice and after compliance with requirements, the individual may apply for a new driver's license at any time after cancellation.

(2) "Caravaning" means the transportation of any motor vehicle into, out of, or within the state operating on its own wheels or in tow for the purpose of sale or offer of sale by any agent, dealer, manufacturer's representative, purchaser, or prospective purchaser, regardless of residence unless the motor vehicle is licensed by the state of Idaho, or is owned by an automobile dealer, duly licensed as a dealer by this state. It shall also be considered as the transportation of property for hire by a motor vehicle upon the highways of this state.

(3) "Certificate of liability insurance" means a certificate of liability insurance issued by an insurance company authorized to do business in this state or a certificate of liability insurance issued by the department of insurance which demonstrates current insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance or use of a motor vehicle described in the certificate in an amount not less than that required by section 49-1212, Idaho Code, and also demonstrates the current existence of any other coverage required by title 41, Idaho

Code, or a certificate of self-insurance issued pursuant to law for each motor vehicle to be registered. A certificate of liability insurance shall contain the information required by the department of insurance, including the name and address of the owner of the motor vehicle and a description of the motor vehicle including identification number if there is one, or a statement that all vehicles owned by a person or entity are covered by insurance, the inception date of coverage, and the name of the insurer. "Certificate of liability insurance" may also include the original contract of liability insurance or a true copy, demonstrating the current existence of the liability insurance described above.

(4) "Certification of safety compliance" means that a motor carrier certifies as part of its registration process that it has knowledge of the federal regulations and rules promulgated by the Idaho transportation department and the department of law enforcement applicable to motor carriers.

(5) "Commercial coach." (See section 39-4105, Idaho Code)

(56) "Commercial driver's license" means any class A, class B or class C driver's license as defined in section 49-105, Idaho Code.

(67) "Commercial driver license information system (CDLIS)" is the information system established to serve as a clearinghouse for locating information related to the licensing and identification of motor vehicle drivers.

(78) "Commercial driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, and charging a consideration or tuition for such services.

(89) "Commercial vehicle" or "commercial motor vehicle." (See "Vehicle", section 49-123, Idaho Code)

(910) "Compliance review" means an on-site examination of motor carrier operations, which may be at the carrier's place of business, including driver's hours of service, vehicle maintenance and inspection, driver qualifications, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and such other related safety and transportation records to determine safety fitness.

(11) "Construction danger zone" means a construction or maintenance area that is located on or adjacent to a highway and marked by appropriate warning signs.

(102) "Controlled substance" means any substance so classified under section 102(6) of the controlled substances act (21 U.S.C. 802(6)), and includes all substances listed on schedules I through V, of 21, CFR part 1308, as they may be revised from time to time.

(113) "Conviction" means the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(124) "Crosswalk" means:

(a) That part of a highway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable highway; and in the absence of a sidewalk on one side of the highway, that part of a

highway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline.

(b) Any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

SECTION 4. That Section 49-114, Idaho Code, be, and the same is hereby amended to read as follows:

49-114. DEFINITIONS -- M.

(1) "Major component part" means a rear clip, cowl, frame or inner structure forward of the cowl, body, cab, front end assembly, front clip or such other part which is critical to the safety of the vehicle.

(2) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste or material identification code and destination of hazardous material or hazardous waste during any transportation within, through, or to any destination in this state.

(3) "Manufactured home." (See section 39-4105, Idaho Code)

(4) "Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered at an established place of business in this state. The term, for purposes of sections 49-1613 through 49-1615, 49-1617, 49-1622 and 49-1623, Idaho Code, shall include a distributor and other factory representatives.

(5) "Manufacturer's year designation" means the model year designated by the vehicle manufacturer, and not the year in which the vehicle is, in fact, manufactured.

(6) "Maximum gross weight" means the scale weight of a vehicle, equipped for operation, to which shall be added the maximum load to be carried as declared by the owner in making application for registration. When a vehicle against which a registration or use fee is assessed is a combination of vehicles, the term "maximum gross weight" means the combined maximum gross weights of all vehicles in the combination.

(7) "Metal tire." (See "Tires," section 49-121, Idaho Code)

(8) "Moped" means a limited-speed motor-driven cycle which is not capable of propelling the vehicle at a speed in excess of thirty (30) miles per hour on level ground, whether two (2) or three (3) wheels are in contact with the ground during operation. If an internal combustion engine is used, the displacement shall not exceed fifty (50) cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(9) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor and moped.

(10) "Motor carrier" means an individual, partnership, corporation or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire.

(11) "Motor home" means a vehicular unit designed to provide temporary living quarters, built into an integral part or permanently

attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the American National Standards Institute (ANSI) A119.7 Standard for Recreational Vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or ice box, self-contained toilet, heating and/or air conditioning, a potable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(112) "Motorized wheelchair" means a motor vehicle with a speed not in excess of eight (8) miles per hour, designed for and used by a handicapped person.

(123) "Motor number." (See "Identifying number", section 49-110, Idaho Code)

(134) "Motor vehicle." (See "Vehicle", section 49-123, Idaho Code)

(145) "Motor vehicle liability policy" means an owner's or operator's policy of liability insurance, certified as provided in section 49-1210, ~~or 49-1211~~, Idaho Code, as proof of financial responsibility, and issued, ~~except as otherwise provided in section 49-1211, Idaho Code~~, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(156) "Motor vehicle record" means any record that pertains to a motor vehicle registration, motor vehicle title or identification documents or other similar credentials issued by the department or other state or local agency.

SECTION 5. That Chapter 2, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-201B, Idaho Code, and to read as follows:

49-201B. BASE STATE AGREEMENTS. Pursuant to federal law, the Idaho transportation department is hereby authorized to enter into reciprocal agreements with the regulatory agencies of other states having jurisdiction and authority over motor carriers to provide for base state agreements in which the registration of interstate carriers operating in participating states may be accomplished by registration in one (1) base state. Carriers electing to register under base state agreements shall be subject to the jurisdiction and authority of the Idaho transportation department to the same extent as they would if they did not participate in the base state agreement. The fees authorized by federal law, or such lesser fees as the participating states agree to, may be collected, and the base state may require further filings of certificates of insurance, surety bonds, et cetera, to show the carrier's qualifications to operate. Participating carriers shall register their authority directly with the transportation department and not with other state or local agencies.

SECTION 6. That Section 49-202, Idaho Code, be, and the same is hereby amended to read as follows:

49-202. DUTIES OF DEPARTMENT. (1) All registration and driver's

license records in the office of the department shall be public records and open to inspection by the public during normal business hours, except for those records declared by law to be for the confidential use of the department, or those records containing personal information subject to restrictions or conditions regarding disclosure. If the department has contracted for a service to be provided by another entity, an additional fee shall be charged by that contractor whether the service is rendered during normal business hours, other than normal business hours or on weekends.

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

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

A lesser amount may be set by rule of the board.

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

(4) The department may enter into agreements with private companies or public entities to provide the services for which a fee is collected in subsection (2)(f) of this section. Such private contrac-

tor shall collect the fee prescribed and remit the fee to the department. The contractor shall also collect and retain the additional fee charged for his services.

(5) (a) The department shall pay three dollars (\$3.00) of the fee collected by a county assessor or other agent of the department as provided in subsection (2)(a) through (f) of this section, to the county assessor of the county or agent collecting such fee, which shall be deposited with the county treasurer and credited to the county current expense fund. The remainder of the fees collected as provided in that subsection shall be paid by the department to the state treasurer and placed in the state highway account.

(b) The fee collected under subsection (2)(j) of this section for a VIN inspection shall be placed in the city general fund if conducted by a city peace officer, in the county current expense fund if conducted by a county peace officer, shall be retained by the special agent authorized to perform the inspection, or paid to the state treasurer and placed to the credit of the department of law enforcement if conducted by the Idaho state police division or in the state highway account if conducted by the department.

(c) The fee collected under subsection (2)(o) of this section for motor carriers shall be paid by the department to the state treasurer and placed in the state highway account. The director and the director of the department of law enforcement shall jointly determine the amount to be transferred from the state highway account to the law enforcement account for motor carrier safety programs conducted by the department of law enforcement pursuant to the provisions of section 67-2901A, Idaho Code.

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

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

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

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

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

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

(b) The applicant has neglected or refused to furnish the department with the information required in the appropriate form or reasonable additional information required by the department, or has

failed to comply with the provisions of section 49-436, Idaho Code, in past registration periods; or

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

(11) The department or its authorized agents have the authority to request any person, to submit to medical, vision, highway, or written examinations, to protect the safety of the public upon the highways. The department or its authorized agents may exercise such authority based upon evidence which may include, but is not limited to, observations made.

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

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

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

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

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

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

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

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

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

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

(15) The department shall cancel a driver's license or identification card when fees required by law have not been paid or where fees

are due, owing and unpaid including nonsufficient fund checks, until those fees have been paid.

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

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

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

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

(20) The department shall place and maintain traffic-control devices, conforming to the board's manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this title or to regulate, warn, or guide traffic. No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the department except by the latter's permission, except where the duly elected officials of an incorporated city have established speed limits lower than those set by the department on the portion of state highways, excluding controlled-access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city. The placement and maintenance of such a traffic-control device by a local authority shall be made according to the board's manual and specifications for a uniform system of traffic-control devices.

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

(22) Whenever the department shall determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs, except in cases where the duly elected officials of an incorporated city have established speed limits lower than those set by the department on portions of state highways, excluding controlled-access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city.

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

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

applicable.

(25) Wherever a highway crosses one (1) or more railroads at grade, the department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when in the determination of public highway agencies the existence of stop signs at a given crossing would constitute a greater hazard than their absence based on a recognized engineering study.

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

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

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

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

(29) On any informational material printed after July 1, 1995, by or at the order of the department and distributed to counties, school districts or individuals for the purpose of assisting a person to successfully pass a driver's license test, the department shall include material about the state's open range law and responsibilities, liabilities and obligations of drivers driving in the open range.

SECTION 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 speci-

fied 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.

(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~~ execute a certification of safety compliance.

(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 domicile address to the assessor so that the principal 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 domicile 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 49-1229, 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~~ A motor carrier operating under authority of a permit issued by the public utilities commission shall continuously provide insurance against loss resulting from liability imposed by law or by rule of the department and shall comply with the insurance requirements of section ~~61-804~~ 49-1233, 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 9. That Chapter 12, 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 49-1233, Idaho Code, and to read as follows:

49-1233. MOTOR CARRIER FINANCIAL RESPONSIBILITY -- EXEMPTIONS -- BOARD RULES. (1) Before registering any motor carrier for transporting persons or property, the department shall require verification from the motor carrier that it has obtained and has in effect liability and property damage insurance, or has a surety bond written by an insurer

licensed to furnish such insurance in this state or by a surety company authorized to write surety bonds in this state, or who qualifies as a self-insurer pursuant to the provisions of section 49-1224, Idaho Code.

(2) A motor carrier, unless exempted under the provisions of subsection (4) of this section, shall file with the department proof of liability and property damage insurance, surety bond, or proof of self-insurance in such form as the board shall prescribe. It shall be kept in full force and effect, and failure to do so shall be cause for revocation of the registration of the motor carrier.

(3) Insurance carriers shall file a notice with the department at least thirty (30) days before the effective date of any termination of insurance or surety bond or of a reduction in insurance below the amounts set by the board.

(4) Exemptions. The following intrastate motor carriers shall not be exempt from coverage in the amounts required by the provisions of section 49-117, Idaho Code, but shall be exempt from the motor carrier liability and property damage insurance coverage required herein by rule of the board:

(a) Motor vehicles employed solely in transporting school children and teachers to or from school or to and from approved school activities, when the motor vehicles are either:

(i) Wholly owned and operated by such school, or

(ii) Leased or contracted by such school and the motor vehicle is not used in the furtherance of any other commercial enterprise; or

(b) Taxicabs or other motor vehicles performing a licensed or franchised taxicab service, having a seating capacity of not more than seven (7) passengers within twenty-five (25) miles of the boundaries of the licensing or franchising jurisdiction; or

(c) Motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroads or airports or other common carrier stations; or

(d) Motor vehicles controlled and operated by any farmer when used in the transportation of his farm equipment or in the transportation of supplies to his farm; or

(e) Motor vehicles used exclusively in the distribution of newspapers; or

(f) Transportation of persons or property by motor vehicle at an airport when incidental to transportation by aircraft or other transportation in substitution for scheduled airline service when the carrier cannot provide the scheduled service because of weather and/or mechanical conditions and the transportation is arranged for and paid by the affected airlines; or

(g) Transportation of persons and/or property, including mobile and modular houses manufactured with wheels and undercarriage as part of the substructure, but not transportation of other houses, buildings or structures within a municipality or territory contiguous to such municipality if such operation outside such municipality be a part of a service maintained within the limits of the municipality with the privilege of transfer of passengers to vehicles within the municipality without additional fare; or

- (h) The transportation of agricultural products including fresh fruits and vegetables, livestock, livestock feed or manure; or
- (i) Motor propelled vehicles for the sole purpose of carrying United States mail or property belonging to the United States; or
- (j) Motor carriers transporting products of the forest; or
- (k) Motor carriers transporting products of the mine including sand, gravel and aggregates thereof, except petroleum products; or
- (l) Motor carriers transporting household goods as defined by the federal surface transportation board; or
- (m) Vehicles properly equipped, designed and customarily used for the transportation of disabled or abandoned vehicles by means of a crane, hoist, tow bar, dolly or roll bed, which vehicle shall be known as a "wrecker (tow truck)."

(5) The board shall promulgate rules to implement the provisions of this section, establishing by rule the amount of liability coverage to be carried for personal injury suffered by one (1) person while being transported in any vehicle, any additional amounts for all persons receiving personal injury, and such amount for damage to the property of any person other than the insured. The board is further authorized to adopt temporary rules as necessary.

SECTION 10. That Section 49-2206, Idaho Code, be, and the same is hereby amended to read as follows:

49-2206. ENFORCEMENT. (1) The provisions of this chapter and any rules adopted under it shall be enforced anywhere in the state by an authorized agent of the director or by any peace officer, except for conservation officers of the department of fish and game. Such authorized officers may detain and inspect any sealed or unsealed vehicle, container, or shipment which contains or which they have reason to believe contains hazardous material or wastes while in transit or in maintenance facilities or terminals, or on other public or private property to which the public has access, to ascertain if hazardous materials or wastes are being loaded, unloaded, stored or transported, and to inspect the contents, take samples thereof, and to otherwise insure compliance with the provisions of this chapter and of all rules adopted under ~~chapter 8, title 61~~ section 67-2901A, Idaho Code, or chapter 44, title 39, Idaho Code. If a seal is opened for inspection, the inspecting officer shall reseal any vehicle, container or shipment prior to further transportation. Property used in violation of the laws may be seized and used as evidence.

(2) For the purposes of this chapter and chapter 44, title 39, Idaho Code, the transporter is responsible for the ~~clean-up~~ cleanup of any hazardous material/hazardous waste discharge in, on and outside the vehicle, or any one (1) or more of such locations, that occurs during transportation and must take such action as may be required so that the discharge no longer presents a hazard to public health, safety, or the environment.

(3) The board is authorized to suspend or revoke any permit or endorsement issued pursuant to this chapter if it is determined that any material provision of the permit or endorsement has been violated or if the driver, owner, lessee, or custodian of a permitted vehicle has been convicted of two (2) or more violations within a calendar

year of any combination of statutes or rules relative to hazardous materials or hazardous waste. In any action to suspend or revoke, the board shall comply with the procedures specified in chapter 52, title 67, Idaho Code. Should the board have reasonable cause to believe that there exists any immediate danger to the public health, safety or environment, it may issue an emergency order suspending any permit or endorsement granted under this chapter for a reasonable period not to exceed fourteen (14) days.

SECTION 11. That Section 49-2431, Idaho Code, be, and the same is hereby amended to read as follows:

49-2431. RIDESHARING EXEMPT FROM MOTOR CARRIER LAWS. The following laws and regulations shall not apply to any ridesharing arrangement using a motor vehicle with a seating capacity for not more than fifteen (15) persons, including the driver:

(1) Title ~~61~~ 49, Idaho Code, pertaining to the regulation of motor carriers of any kind or description; ~~by--the--public--utilities commission;~~

(2) Laws and regulations containing insurance requirements that are specifically applicable to motor carriers or commercial vehicles;

(3) Laws imposing a greater standard of care on motor carriers or commercial vehicles than that imposed on other drivers or owners of motor vehicles;

(4) Laws and regulations with equipment requirements and special accident reporting requirements that are specifically applicable to motor carriers or commercial vehicles; and

(5) Laws imposing a tax on fuel purchased in another state by a motor carrier or highway use fees on commercial buses.

SECTION 12. That Sections 61-335 and 61-337, Idaho Code, be, and the same are hereby repealed.

SECTION 13. That Chapter 8, Title 61, Idaho Code, be, and the same is hereby repealed.

SECTION 14. That Section 61-1001, Idaho Code, be, and the same is hereby amended to read as follows:

61-1001. ANNUAL FEES PAYABLE TO COMMISSION BY PUBLIC UTILITIES ~~AND--MOTOR--CARRIERS~~ -- PURPOSE. Each public utility and each railroad corporation, subject to the jurisdiction of the commission, and subject to the provisions of this act, shall pay to the commission in each year, a special regulatory fee in such amount as the commission shall find and determine to be necessary, together with the amount of all other fees paid or payable to the commission by each such public utility and railroad corporation in the current calendar year, ~~together with the fees collected by the commission from motor carriers under--chapter--8,--title--61,--Idaho--Code;~~ to defray the amount to be expended by the commission for expenses in supervising and regulating the public utilities; and railroad corporations ~~and motor carriers~~ subject to its jurisdiction, except for salaries and related payroll expenses for the commissioners.

SECTION 15. That Section 61-1002, Idaho Code, be, and the same is hereby amended to read as follows:

61-1002. EXPENDITURE -- DETERMINATION -- APPORTIONMENT -- APPROPRIATION. At each regular session, the legislature shall determine the amount of money to be expended by the commission during the next ensuing fiscal ~~biennium~~ year and shall appropriate a sufficient amount from the general fund for the payment of administrative personnel costs. The remaining amount to be appropriated shall be defrayed out of fees to be paid by such public utilities, and railroad corporations ~~and--motor--carriers~~ out of the "Public Utilities Commission Fund," as hereinafter provided.

SECTION 16. That Section 61-1008, Idaho Code, be, and the same is hereby amended to read as follows:

61-1008. PUBLIC UTILITIES COMMISSION FUND -- CREATION -- APPROPRIATION -- DISPOSITION OF SURPLUS. The state treasurer shall be custodian of a fund, which is hereby created, to be known as the "Public Utilities Commission Fund," into which shall be paid and deposited all funds accruing or received under any and all provisions of this act chapter, and all fees, licenses, charges, assessments, fines and penalties, ~~including fees collected from motor carriers under the provisions of title 61, chapter 8, Idaho Code~~, now or hereafter payable to, collected or recovered by the commission under any other law of this state, and all funds otherwise appropriated or made available to said fund. All moneys from whatever source accruing to and received into said fund are hereby appropriated, within the limits of funds determined therefor by the legislature, for the payment of the administrative and maintenance expenses of the commission, including salaries and wages of the commissioners and employees, travel, supplies, equipment, fixed charges, refunds of fees and all other necessary expenses of the commission, not otherwise provided for; moneys shall be paid out of said "Public Utilities Commission Fund" by the state treasurer only upon claim vouchers prepared and approved by the commission, certified by the president of the commission to the state controller who, after audit as provided by law, shall draw his warrant against said "Public Utilities Commission Fund" for all such claims. Any moneys collected under this act chapter remaining in said "Public Utilities Commission Fund" at the end of any fiscal year, shall be retained in said fund for the use of the commission for the purposes specified in this act chapter and shall be credited ratably by the commission to the respective railroad corporations, other public utilities subject to the provisions of this act chapter according to the respective portions of such fees determined hereunder to be assessable against each such railroad corporation and other public utility, respectively, for the ensuing fiscal year, and the respective fee assessed against each of them, respectively, for such ensuing fiscal year shall be correspondingly reduced; provided that, only moneys paid under the provisions of this act chapter by railroad corporations and other public utilities shall be considered in determining the surplus to be so credited by the commission.

SECTION 17. That Section 61-1009, Idaho Code, be, and the same is hereby amended to read as follows:

61-1009. LEGISLATIVE INTENT. The legislature hereby declares that the purpose and intent of this act chapter is to provide that expenses for personnel costs for administration of the commission shall be appropriated from the general fund and that the remaining expenses for the supervision and regulation of railroad corporations; and other public utilities ~~and--motor-carriers~~ shall be appropriated from fees imposed upon public utilities;~~motor-carriers~~ and railroad corporations so supervised and regulated.

SECTION 18. That Section 61-1118, Idaho Code, be, and the same is hereby amended to read as follows:

61-1118. ADMINISTRATIVE FEES. The commission shall charge and collect the following fees and none other, in the administration of this act:

Applications for a certificate shall be accompanied by an application fee of	\$150.00
Application for transfer of a certificate	150.00
Application for the assignment of a certificate	150.00
Application for the issuance of a duplicate certificate	25.00
Application for certificate reinstatement	150.00
Application for certificate suspension	50.00
Annual registration of certificate authority	100.00
Application for a temporary certificate	150.00

The fees as provided above shall be ~~disposed of in accordance with the--provisions--of--section--61-813, Idaho Code~~ paid to the state treasurer and shall be credited to the public utilities commission fund.

SECTION 19. That Chapter 29, 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 67-2901A, Idaho Code, and to read as follows:

67-2901A. AUTHORITY TO CONDUCT SAFETY INSPECTIONS AND COMPLIANCE REVIEWS OF MOTOR CARRIERS -- ADOPTION OF RULES -- PENALTY. (1) The director of the department of law enforcement shall have responsibility for ensuring that safety inspections and compliance reviews are conducted and that motor carriers are inspected for compliance with federal motor carrier safety and hazardous materials regulations and for compliance with applicable Idaho laws and such rules as are adopted pursuant to this section.

(2) The director shall have the authority and is directed to promulgate rules to provide for the safe operation of motor carriers and for the inspection of records, books, papers and documents relating to safety management systems or programs and compliance with the federal safety fitness standard. The director is further authorized to adopt temporary rules as necessary.

(3) Any person who violates or fails to comply with any rule promulgated by the director under the provisions of this section is guilty of a misdemeanor.

SECTION 20. That Chapter 29, 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 67-2901B, Idaho Code, and to read as follows:

67-2901B. INSPECTION OF MOTOR CARRIERS -- EXEMPTIONS -- CERTIFICATION OF REPAIR -- COMPLIANCE REVIEW -- PENALTIES. (1) All motor carriers, except those exempted under the provisions of subsection (2) of this section, are subject to compliance review and inspection by authorized department employees for compliance with federal motor carrier safety and hazardous materials regulations and for compliance with applicable Idaho laws and rules promulgated by the director pursuant to the provisions of section 67-2901A, Idaho Code. A motor carrier shall submit any vehicle to a safety inspection when requested to do so by an authorized department employee. Such inspections shall comply, to the extent possible, with national and industry standards for truck inspections and truck safety as adopted by the commercial vehicle safety alliance. A written inspection report shall be provided to the owner, operator or agent of the vehicle following any inspection review pursuant to this section.

(2) The following intrastate motor carriers shall be exempt from safety inspections and compliance reviews:

(a) Motor vehicles employed solely in transporting school children and teachers to or from school or to and from approved school activities, when the motor vehicles are either:

(i) Wholly owned and operated by such school, or

(ii) Leased or contracted by such school and the motor vehicle is not used in the furtherance of any other commercial enterprise; or

(b) Taxicabs or other motor vehicles performing a licensed or franchised taxicab service, having a seating capacity of not more than seven (7) passengers within twenty-five (25) miles of the boundaries of the licensing or franchising jurisdiction; or

(c) Motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroads or airports or other common carrier stations; or

(d) Motor vehicles controlled and operated by any farmer when used in the transportation of his farm equipment or in the transportation of supplies to his farm; or

(e) Motor vehicles used exclusively in the distribution of newspapers; or

(f) Transportation of persons or property by motor vehicle at an airport when incidental to transportation by aircraft or other transportation in substitution for scheduled airline service when the carrier cannot provide the scheduled service because of weather and/or mechanical conditions and the transportation is arranged for and paid by the affected airlines; or

(g) Transportation of persons and/or property, including mobile and modular houses manufactured with wheels and undercarriage as part of the substructure, but not transportation of other houses, buildings or structures within a municipality or territory contiguous to such municipality if such operation outside such municipi-

pality be a part of a service maintained within the limits of the municipality with the privilege of transfer of passengers to vehicles within the municipality without additional fare; or

(h) The transportation of agricultural products including fresh fruits and vegetables, livestock, livestock feed or manure; or

(i) Motor propelled vehicles for the sole purpose of carrying United States mail or property belonging to the United States; or

(j) Motor carriers transporting products of the forest; or

(k) Motor carriers transporting products of the mine including sand, gravel and aggregates thereof, except petroleum products; or

(l) Motor carriers transporting household goods as defined by the federal surface transportation board; or

(m) Vehicles properly equipped, designed and customarily used for the transportation of disabled or abandoned vehicles by means of a crane, hoist, tow bar, dolly or roll bed, which vehicle shall be known as a "wrecker (tow truck)."

(3) A motor carrier which has received a written inspection report prepared pursuant to subsection (1) of this section indicating that his vehicle does not comply with applicable federal laws or regulations or Idaho laws or rules, shall certify in writing to the director or his designee within fifteen (15) days of his receipt of the inspection report that he has brought his vehicle into compliance with said laws, regulations or rules. The director or his designee may assess an administrative penalty to any person who does not comply with the certification provisions of this section or who makes a false certification. The penalty shall not exceed one hundred dollars (\$100) for failure to comply with an inspection report or for making a false certification. If an assessment is contested, the director shall comply with the provisions governing contested cases under the administrative procedure act, chapter 52, title 67, Idaho Code.

(4) Any motor carrier subject to rules promulgated under the provisions of section 67-2901A, Idaho Code, shall submit to a compliance review upon request of the director or any officer designated by him, by providing for inspection or copying at any reasonable time, the records, books, papers and documents relating to the safety management systems or program of such motor carrier.

(5) Any penalties collected pursuant to subsection (3) of this section shall be deposited to the state highway account.

SECTION 21. That Section 67-2905, Idaho Code, be, and the same is hereby amended to read as follows:

67-2905. POWERS AND DUTIES OF THE IDAHO STATE POLICE. Members of the Idaho state police shall have the power and it shall be their duty to:

- a. enforce all of the penal and regulatory laws of the state;
- b. prevent and detect crime and apprehend criminals and maintain order;
- c. require all persons using the highways in the state to do so carefully, safely, and with the exercise of care for the persons, property and safety of others;
- d. safeguard and protect the surface and other physical portions of the state highways and enforce any laws for highway safety;

e. enforce federal statutes and regulations relating to motor carrier safety and hazardous materials for interstate carriers;

f. enforce Idaho statutes and rules of the department of law enforcement applicable to motor carriers;

g. enforce all of the laws of the state enacted for the identification, inspection and transportation of livestock and all laws of the state designed to prevent the theft of livestock;

fh. regulate traffic on all highways and roads in the state;

gi. perform all of the duties and exercise all of the powers of peace officers vested in the director of the department of law enforcement;

hj. execute and serve any warrant of arrest or search warrant issued by proper authority of the state, according to the tenor thereof, in any part of the state;

ik. arrest without warrant, any person committing or attempting to commit in their presence or view a breach of the peace or any other violation of any of the laws of the state;

jl. members of the Idaho state police shall be subject to the call of the governor and are empowered to cooperate with any other department or authority of the state, with counties and municipalities, or any locality in detecting crime, apprehending criminals and preserving law and order throughout the state; but the Idaho state police shall not be used as a posse in any municipality, except when ordered by the governor to do so; provided nothing herein contained shall be construed to vest direction or control over any sheriff, policeman, marshal or constable in the Idaho state police or any employer or officer thereof;

km. each member of the Idaho state police shall take and subscribe to an oath of office to support the constitution and laws of the United States and the state of Idaho, and to honestly and faithfully perform the duties imposed upon him under the provisions of the laws of Idaho as a member of the Idaho state police. The oath of the superintendent shall be filed with the secretary of state, and the oaths of all other members with the superintendent.

SECTION 22. That Section 67-2917, Idaho Code, be, and the same is hereby amended to read as follows:

67-2917. HAZARDOUS WASTE. Wherever hazardous waste, as defined in section 39-4403, Idaho Code, is being transported within the state, within the state to without the state, or from without the state to within the state, the operator or owner of the motor vehicle or trailer, as defined in chapter 1, title 49, Idaho Code, transporting hazardous waste is hereby required to stop at such ports of entry or checking stations and submit to inspection or weighing for compliance with the laws of the state of Idaho. Additionally, such owner or operator of the motor vehicle or trailer transporting hazardous waste is hereby required and directed to allow employees of the department of health and welfare, ~~the public utilities commission~~ authorized Idaho transportation department employees or the state police or any peace officer on duty to inspect and review all manifests and bills of lading to ensure that such hazardous waste is being shipped in a manner which will not endanger the health, welfare or safety of the citizens

of the state of Idaho and is being shipped in compliance with the laws of the state of Idaho and any rules promulgated pursuant thereto.

Approved March 26, 1999.

CHAPTER 384
(H.B. No. 347)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2000; 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 expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. HISTORIC PRESERVATION AND EDUCATION:					
FROM:					
General Fund	\$1,108,600	\$368,600	\$138,400	\$ 2,700	\$1,618,300
Federal Grant Fund	489,600	92,600		41,900	624,100
Miscellaneous Revenue Fund	65,300	124,600		4,600	194,500
TOTAL	\$1,663,500	\$585,800	\$138,400	\$49,200	\$2,436,900
II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:					
FROM:					
General Fund	\$ 123,200	\$ 99,400			\$ 222,600
Miscellaneous Revenue Fund	113,100	94,800	\$ 800		208,700
TOTAL	\$ 236,300	\$194,200	\$ 800		\$ 431,300
GRAND TOTAL	\$1,899,800	\$780,000	\$139,200	\$49,200	\$2,868,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than thirty-nine and thirty-six hundredths (39.36) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 320, Laws of 1998, to be used for nonrecurring expenditures for the period July 1, 1999, through June 30, 2000.

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, 1999, 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, 1999, 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 26, 1999.

CHAPTER 385
(H.B. No. 369)

AN ACT

RELATING TO SPECIAL LICENSE PLATE PROGRAMS; AMENDING SECTION 49-402C, IDAHO CODE, TO PROVIDE THAT IF IN EACH OF TWO CONSECUTIVE YEARS FEWER THAN ONE THOUSAND LICENSE PLATES ARE ISSUED PER YEAR FOR A SPECIAL LICENSE PLATE PROGRAM, THE DEPARTMENT SHALL ADVISE THE LEGISLATURE AND APPROPRIATE ACTION MAY BE TAKEN TO DISCONTINUE THAT SPECIAL LICENSE PLATE PROGRAM, TO PROVIDE EXCEPTIONS AND TO PROVIDE A CORRECT CODE CITATION.

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

SECTION 1. That Section 49-402C, Idaho Code, be, and the same is hereby amended 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 49-43343, 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.

(5) Following an introductory period of two (2) years during which the provisions of this subsection shall not apply, if, for two (2) consecutive years, fewer than one thousand (1,000) plates are issued per year for a special license plate program, the department shall so advise the legislature and assist the legislature in adopting appropriate action to discontinue that special license plate program. The provisions of this subsection shall apply only to special license plate programs created after July 1, 1998.

Approved March 26, 1999.

CHAPTER 386
(H.B. No. 375)

AN ACT

RELATING TO THE APPROPRIATION FOR PUBLIC SCHOOL SUPPORT FOR FISCAL YEAR 2000; 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, TO INCREASE THE BASE SALARY FOR SALARY-BASED APPORTIONMENT AND TO MAKE A TECHNICAL CORRECTION; PROVIDING THAT THE STATE DEPARTMENT OF EDUCATION SHALL HAVE CERTAIN AUTHORITY; EXPRESSING LEGISLATIVE INTENT THAT \$500,000 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 LIBRARY SERVICES IMPROVEMENT FUND FOR LILLI, AND THAT \$3,000,000 BE WITHHELD PENDING AN INDEPENDENT REVIEW; EXPRESSING LEGISLATIVE INTENT THAT NOT MORE THAN \$150,000 BE EXPENDED FOR IDAHO COUNCIL FOR TECHNOLOGY EXPENSES WHICH SHALL INCLUDE AN AMOUNT NOT TO EXCEED \$40,000 TO BE USED FOR AN EVALUATION OF THE PUBLIC SCHOOL TECHNOLOGY GRANT PROGRAM WITH REPORTING REQUIREMENTS; EXPRESSING LEGISLATIVE INTENT THAT \$425,000 BE DISTRIBUTED TO TEACHERS AS CREATIVE AND INNOVATIVE GRANTS; EXPRESSING LEGISLATIVE INTENT THAT \$3,750,000 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 \$5,175,000 OF THE MONEYS ACCRUING PURSUANT TO SECTIONS 63-2506 AND 63-2552A, IDAHO CODE, AND SUCH OTHER MONEYS WHICH MAY BECOME AVAILABLE PURSUANT TO SECTION 67-7439, IDAHO CODE, 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 REGARDING EXPENDITURE AND DISTRIBUTION OF \$1,000,000 FOR EMPLOYMENT AND TRAINING FOR WORKING WITH CHILDREN WITH DISABILITIES; EXPRESSING LEGISLATIVE INTENT THAT \$500,000 BE DISTRIBUTED FOR TRAINING TO SERVE THE NEEDS OF GIFTED AND TALENTED STUDENTS AND PROVIDING FOR HOW THE FUNDS SHALL BE ALLOCATED; APPROPRIATING THE AMOUNT OF GENERAL FUNDS NECESSARY AS DETERMINED BY SECTION 33-1002D, IDAHO CODE, FOR PROPERTY TAX REPLACEMENT; EXPRESSING LEGISLATIVE INTENT THAT AN AMOUNT NOT TO EXCEED \$200,000 BE EXPENDED TO UPDATE THE 1993 PUBLIC SCHOOLS FACILITIES STUDY; EXPRESSING LEGISLATIVE INTENT THAT AN AMOUNT NOT TO EXCEED \$51,000 BE EXPENDED FOR AWARDS MADE TO INSTRUCTIONAL STAFF FOR CERTIFICATION BY THE NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS; RECOGNIZING ADDITIONAL STATE FINANCIAL SUPPORT BEYOND ESTABLISHED BUDGETS AND EXPRESSING LEGISLATIVE INTENT FOR THE USE OF THESE FUNDS AS A ONE-TIME SUPPLEMENT TO DISCRETIONARY FUNDING NEEDS IN THE DISTRICTS; AND EXPRESSING LEGISLATIVE INTENT THAT \$3,916,000 BE EXPENDED TO IMPLEMENT IDAHO'S 1999 COMPREHENSIVE LITERACY ACT.

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

SECTION 1. It is legislative intent that the following amount shall be expended from state sources for public schools for the period July 1, 1999, through June 30, 2000:

FROM:

General Fund	\$763,672,000	
General Fund - Property Tax Replacement	<u>57,400,000</u>	
Total General Funds		\$821,072,000
Dedicated Funds:		
Endowment Funds/Lands Receipts	\$ 42,281,400	
Mineral Royalties	1,900,000	
Liquor Fund	1,200,000	
Cigarette/Tobacco and Lottery Income Taxes	5,175,000	
Miscellaneous Receipts/Balances	<u>6,240,600</u>	
Total Dedicated Funds		\$ 56,797,000
TOTAL		\$877,869,000

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, 1999, through June 30, 2000:

FROM:

General Fund	\$821,072,000
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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 \$877,869,000 for the period July 1, 1999, through June 30, 2000.

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, 1999, through June 30, 2000.

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 \$20,306915. 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 salarybased 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 \$29,70830,599. 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 \$15,75916,232 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 \$500,000 of the moneys appropriated in Section 3 of this act shall be distributed for locally developed programs in grades K-6 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 upon direction of the Idaho Council for Technology in Learning, in accordance with Section 33-4806, Idaho Code; and \$265,000 to be transferred to the Library Services Improvement Fund for the State Library's "Libraries Linking Idaho" (LiLI) statewide database licensing project. Of the \$7,000,000 designated for one-time expenditures, \$3,000,000 shall not be expended until the independent third party review required in Section 9 of this act has been completed and determined to be acceptable by the Governor.

SECTION 9. It is legislative intent that an amount not to exceed \$150,000 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. Within the Council expenses, an amount not to exceed \$40,000 shall be used to

conduct a qualitative evaluation on the effectiveness of the Public School Technology Grant Program in improving student learning and achievement. The evaluation shall include an independent third party review as determined by the Governor with a report of the evaluation and review to be received by the Joint Finance-Appropriations Committee, Senate Education Committee, and House Education Committee no later than December 1, 1999.

SECTION 10. It is legislative intent that \$425,000 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 \$3,750,000 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, an amount not to exceed \$5,175,000 as determined by available revenues accruing pursuant to Sections 63-2506 and 63-2552A, Idaho Code, and other such moneys which may become available 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, 1999, through June 30, 2000.

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-five percent (95%) 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 five percent (5%), \$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 needs 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. The number of gifted/talented students identified for purposes of this section will not exceed seven percent (7%) of the district's total student enrollment. 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. 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, 1999, through June 30, 2000.

SECTION 19. It is legislative intent that up to \$200,000 of the moneys appropriated in Section 3 of this act be used to update the 1993 Public Schools Facilities Study.

SECTION 20. It is legislative intent that up to \$51,000 of the moneys appropriated in Section 3 of this act be awarded to those instructional staff members who have successfully completed certification by the National Board for Professional Teaching Standards as of July 1 of each year. The staff member having obtained national certification shall be designated as a master teacher and receive a one-time award for this accomplishment if employed by an Idaho school district for that same academic year.

SECTION 21. Whereas the Legislature recognizes that due to the reduction of Public Employee Retirement System rates and the reduction of the estimated support units used to establish budgets for Idaho's school districts, an additional and substantial amount of state discretionary funding per support unit will become available. It is therefore the intent of the Legislature that this additional state financial support, together with those amounts estimated in the regular fiscal year 2000 budget, be utilized by the school districts as a one-time supplement to discretionary funding needs.

SECTION 22. It is legislative intent that \$3,916,000 of the moneys appropriated in Section 3 of this act be used to implement Idaho's 1999 "Comprehensive Literacy Act: Every Child's Birthright" in the form and fashion prescribed according to the associated legislation.

Approved March 26, 1999.

CHAPTER 387
(H.B. No. 186)

AN ACT

RELATING TO ATTENDANCE AT SCHOOLS; AMENDING SECTION 33-203, IDAHO CODE, TO ALLOW STUDENTS ATTENDING A PUBLIC CHARTER SCHOOL TO PARTICIPATE IN PUBLIC SCHOOL PROGRAMS UNDER THE DUAL ENROLLMENT PROVISIONS OF LAW.

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

SECTION 1. That Section 33-203, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

Approved March 29, 1999.

CHAPTER 388
(H.B. No. 230, As Amended)

AN ACT

RELATING TO JUVENILE CORRECTIONS; AMENDING SECTION 20-505, IDAHO CODE, TO REMOVE EXEMPTION FROM THE JURISDICTION OF THE JUVENILE CORRECTIONS ACT FOR THE POSSESSION OR USE OF INHALANTS, THE POSSESSION OF MARIJUANA OR PARAPHERNALIA OR USING OR BEING UNDER THE INFLUENCE OF CONTROLLED SUBSTANCES BY JUVENILES; AND AMENDING SECTION 18-1502C, IDAHO CODE, TO PROVIDE A SENTENCING CITATION.

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

SECTION 1. That Section 20-505, Idaho Code, be, and the same is hereby amended to read as follows:

20-505. JURISDICTION. Subject to the prior jurisdiction of the United States, the court shall have exclusive, original jurisdiction over any juvenile and over any adult who was a juvenile at the time of any act, omission or status, in the county in which the juvenile resides, or in the county in which the act, omission or status allegedly took place, in the following cases:

(1) Where the act, omission or status is prohibited by federal, state, local or municipal law or ordinance by reason of minority only, regardless of where the same occurred;

(2) Where the act or omission is a violation of any federal, state, local or municipal law or ordinance which would be a crime if committed by an adult, regardless of where the same occurred, except traffic, watercraft, fish and game, failure to obey a misdemeanor citation and criminal contempt violations. A juvenile violator under the age of fourteen (14) year at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter;

(3) Concerning any juvenile where the juvenile comes under the purview of the interstate compact on juveniles as set forth in chapter .9, title 16, Idaho Code;

(4) This chapter shall not apply to juvenile violators of beer, wine or other alcohol and tobacco laws; except that a juvenile violator under the age of fourteen (14) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter;

(5) This chapter shall not apply to the violent juvenile offender, as defined in this chapter;

~~(6) This chapter shall not apply to juvenile violators of the provisions of section 18-1502B, Idaho Code, pertaining to the posses-~~

~~sion and usage of inhalants; or section 18-1502C, Idaho Code, pertaining to the possession of marijuana or paraphernalia; unless the court so orders the juvenile violator to come under the purview of this chapter;~~

(7) This chapter shall not apply to juvenile violators of the provisions of section 18-3302D, Idaho Code, pertaining to the carrying of a concealed weapon on school property.

SECTION 2. That Section 18-1502C, Idaho Code, be, and the same is hereby amended to read as follows:

18-1502C. POSSESSION OF MARIJUANA OR DRUG PARAPHERNALIA BY A MINOR -- USE OF CONTROLLED SUBSTANCES -- FINES. (1) Any person under eighteen (18) years of age who shall have in his possession any marijuana as defined in section 37-2701(s), Idaho Code, which would constitute a misdemeanor for an adult so charged, or who shall have in his possession any drug paraphernalia as defined in section 37-2701(n), Idaho Code, or who shall unlawfully use or be under the influence of controlled substances in violation of the provisions of section 37-2732C, Idaho Code, shall be guilty of a misdemeanor, and upon conviction, may be punished by a fine not in excess of one thousand dollars (\$1,000) or by ninety (90) days in a juvenile detention facility or by both or may be subject to the provisions of chapter 5, title 20, Idaho Code. If the juvenile is adjudicated under the provisions of chapter 5, title 20, Idaho Code, for a violation of this section he shall be sentenced in accordance with the provisions of this section chapter 5, title 20, Idaho Code. The juvenile shall be adjudicated under chapter 5, title 20, Idaho Code, for a violation of section 37-2732C, Idaho Code, unless the court finds that adjudication under chapter 5, title 20, Idaho Code, is not appropriate in the circumstances.

(2) A conviction under this section shall not be used as a factor or considered in any manner for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer, nor shall such conviction be grounds for nonrenewal of any insurance policy as provided in section 41-2507, Idaho Code.

(3) Any person who pleads guilty or is found guilty of possession of marijuana pursuant to this section, or who pleads guilty or is found guilty of a violation of section 37-2732C, Idaho Code, then in addition to the penalty provided in subsection (1) of this section:

(a) The court shall suspend the person's driving privileges for a period of not more than one (1) year. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(b) If the person's driving privileges have been previously suspended under this section, the court shall suspend the person's driving privileges for a period of not more than two (2) years. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(c) The person shall surrender his license or permit to the court.

(d) The court shall notify the motor vehicle division of the Idaho transportation department of all orders of suspension it issues pursuant to this section.

(4) The court, in its discretion, may also order the person convicted of possession of marijuana under subsection (1) of this section, or convicted of using or being under the influence of a controlled substance in violation of section 37-2732C, Idaho Code, to undergo and complete a substance abuse evaluation and to complete a drug treatment program, as provided in section 37-2738(2), Idaho Code.

Approved March 29, 1999.

CHAPTER 389
(H.B. No. 231)

AN ACT

RELATING TO JUVENILE CORRECTIONS; AMENDING SECTION 20-505, IDAHO CODE, TO REMOVE EXEMPTION FROM THE JURISDICTION OF THE JUVENILE CORRECTIONS ACT FOR THE CARRYING OF A CONCEALED WEAPON ON SCHOOL PROPERTY.

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

SECTION 1. That Section 20-505, Idaho Code, be, and the same is hereby amended to read as follows:

20-505. JURISDICTION. Subject to the prior jurisdiction of the United States, the court shall have exclusive, original jurisdiction over any juvenile and over any adult who was a juvenile at the time of any act, omission or status, in the county in which the juvenile resides, or in the county in which the act, omission or status allegedly took place, in the following cases:

(1) Where the act, omission or status is prohibited by federal, state, local or municipal law or ordinance by reason of minority only, regardless of where the same occurred;

(2) Where the act or omission is a violation of any federal, state, local or municipal law or ordinance which would be a crime if committed by an adult, regardless of where the same occurred, except traffic, watercraft, fish and game, failure to obey a misdemeanor citation and criminal contempt violations. A juvenile violator under the age of fourteen (14) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter;

(3) Concerning any juvenile where the juvenile comes under the purview of the interstate compact on juveniles as set forth in chapter 19, title 16, Idaho Code;

(4) This chapter shall not apply to juvenile violators of beer, wine or other alcohol and tobacco laws; except that a juvenile violator under the age of fourteen (14) years at the time of the violation

may, at the discretion of the court, be treated under the provisions of this chapter;

(5) This chapter shall not apply to the violent juvenile offender, as defined in this chapter;

(6) This chapter shall not apply to juvenile violators of the provisions of section 18-1502B, Idaho Code, pertaining to the possession and usage of inhalants, or section 18-1502C, Idaho Code, pertaining to the possession of marijuana or paraphernalia, unless the court so orders the juvenile violator to come under the purview of this chapter;

~~(7) This chapter shall not apply to juvenile violators of the provisions of section 18-3302B, Idaho Code, pertaining to the carrying of a concealed weapon on school property.~~

Approved March 29, 1999.

CHAPTER 390
(H.B. No. 311)

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-508, IDAHO CODE, TO PROVIDE THAT A JUVENILE HELD FOR ADULT CRIMINAL PROCEEDINGS MAY BE SENTENCED UNDER THE JUVENILE CORRECTIONS ACT IF ADULT SENTENCING MEASURES ARE INAPPROPRIATE.

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

SECTION 1. That Section 20-508, Idaho Code, be, and the same is hereby amended to read as follows:

20-508. WAIVER OF JURISDICTION AND TRANSFER TO OTHER COURTS. (1) After the filing of a petition and after full investigation and hearing, the court may waive jurisdiction under the juvenile corrections act over the juvenile and order that the juvenile be held for adult criminal proceedings when:

(a) A juvenile is alleged to have committed any of the crimes enumerated in section 20-509, Idaho Code; or

(b) A juvenile is alleged to have committed an act other than those enumerated in section 20-509, Idaho Code, after the child became fourteen (14) years of age which would be a crime if committed by an adult; or

(c) An adult at the time of the filing of the petition is alleged to have committed an act prior to his having become eighteen (18) years of age which would be a felony if committed by an adult, and the court finds that the adult is not committable to an institution for the mentally deficient or mentally ill, is not treatable in any available institution or facility available to the state designed for the care and treatment of juveniles, or that the safety of the community requires the adult continue under restraint; or

(d) An adult already under the jurisdiction of the court is

alleged to have committed a crime while an adult.

(2) A motion to waive jurisdiction under the juvenile corrections act and prosecute a juvenile under the criminal law may be made by the prosecuting attorney, the juvenile, or by motion of the court upon its own initiative. The motion shall be in writing and contain the grounds and reasons in support thereof.

(3) Upon the filing of a motion to waive jurisdiction under the juvenile corrections act, the court shall enter an order setting the motion for hearing at a time and date certain and shall order a full and complete investigation of the circumstances of the alleged offense to be conducted by county probation, or such other agency or investigation officer designated by the court.

(4) Upon setting the time for the hearing upon the motion to waive jurisdiction, the court shall give written notice of said hearing to the juvenile, and the parents, guardian or custodian of the juvenile, and the prosecuting attorney, at least ten (10) days before the date of the hearing, or a lesser period stipulated by the parties, and such notice shall inform the juvenile and the parents, guardian or custodian of the juvenile of their right to court appointed counsel. Service of the notice shall be made in the manner prescribed for service of a summons under section 20-512, Idaho Code.

(5) The hearing upon the motion to waive jurisdiction shall be held in the same manner as an evidentiary hearing upon the original petition and shall be made part of the record.

(6) If as a result of the hearing on the motion to waive jurisdiction the court shall determine that jurisdiction should not be waived, the petition shall be processed in the customary manner as a juvenile corrections act proceeding. However, in the event the court determines, as a result of the hearing, that juvenile corrections act jurisdiction should be waived and the juvenile should be prosecuted under the criminal laws of the state of Idaho, the court shall enter findings of fact and conclusions of law upon which it bases such decision together with a decree waiving juvenile corrections act jurisdiction and binding the juvenile over to the authorities for prosecution under the criminal laws of the state of Idaho.

(7) No motion to waive juvenile corrections act jurisdiction shall be recognized, considered, or heard by the court in the same case once the court has entered an order or decree in that case that said juvenile has come within the purview of the juvenile corrections act, and all subsequent proceedings after the decree finding the juvenile within the purview of the act must be under and pursuant to the act and not as a criminal proceeding.

(8) In considering whether or not to waive juvenile court jurisdiction over the juvenile, the juvenile court shall consider the following factors:

- (a) The seriousness of the offense and whether the protection of the community requires isolation of the juvenile beyond that afforded by juvenile facilities;
- (b) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;
- (c) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;
- (d) The maturity of the juvenile as determined by considerations

of his home, environment, emotional attitude, and pattern of living;

(e) The juvenile's record and previous history of contacts with the juvenile corrections system;

(f) The likelihood that the juvenile will develop competency and life skills to become a contributing member of the community by use of facilities and resources available to the court;

(g) The amount of weight to be given to each of the factors listed in subsection (8) of this section is discretionary with the court, and a determination that the juvenile is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one (1) or a combination of the factors set forth above, which shall be recited in the order of waiver.

(9) If the court does not waive jurisdiction and order a juvenile or adult held for criminal proceedings, the court in a county other than the juvenile's or adult's home county, after entering a decree that the juvenile or adult is within the purview of this chapter, may certify the case for sentencing to the court of the county in which the juvenile or adult resides upon being notified that the receiving court is willing to accept transfer. In the event of a transfer, which should be made unless the court finds it contrary to the interest of the juvenile or adult, the jurisdiction of the receiving court shall attach to the same extent as if the court had original jurisdiction.

(10) Upon conviction of a juvenile held for adult criminal proceedings under this section, the sentencing judge may choose to sentence the convicted person in accordance with the juvenile sentencing options set forth in this chapter if a finding is made that adult sentencing measures would be inappropriate.

Approved March 29, 1999.

CHAPTER 391
(H.B. No. 351)

AN ACT

RELATING TO PLATS AND VACATIONS; AMENDING SECTION 50-1306, IDAHO CODE, TO PROVIDE THAT COUNTIES WITH JURISDICTION SHALL TRANSMIT PROPOSED PLATS WHICH ARE SITUATED WITHIN ONE MILE OUTSIDE THE LIMITS OF A CITY TO THE AFFECTED CITIES FOR COMMENT, TO PROVIDE THAT CITIES SHALL USE THEIR SUBDIVISION ORDINANCE OR COMPREHENSIVE PLAN AS A GUIDELINE FOR COMMENT AND TO PROVIDE THAT COUNTIES SHALL CONSIDER ALL COMMENTS SUBMITTED BY CITIES PRIOR TO MAKING A DECISION REGARDING THE SUBDIVISION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 50-1306, Idaho Code, be, and the same is hereby amended to read as follows:

50-1306. EXTRATERRITORIAL ~~AUTHORITY~~ EFFECTS OF SUBDIVISION --
PROPERTY WITHIN THE AREA OF CITY IMPACT -- RIGHTS OF CITY TO COMMENT.

All plats situate within an officially designated area of city impact as provided for in section 67-6526, Idaho Code, shall be administered in accordance with the provisions set forth in the adopted city or county zoning and subdivision ordinances having jurisdiction. In the situation where no area of city impact has been officially adopted, the county with jurisdiction shall transmit all proposed plats situate within one (1) mile outside the limits of any incorporated city shall first be submitted to the said city, and approved by the council of said city before the same shall be recorded which has adopted a comprehensive plan or subdivision ordinance to said city for review and comment at least fourteen (14) days before the first official decision regarding the subdivision is to be made by the county. Items which may be considered by the city include, but are not limited to, continuity of street pattern, street widths, integrity and continuity of utility systems and drainage provisions. ~~If the city has adopted a~~ The city's subdivision ordinance and/or a comprehensive plan; ~~then these documents may~~ shall be used as guidelines for approving plats. ~~Such city approval shall be in addition to county approval. Within one (1) mile of the city, a city subdivision ordinance shall prevail over a county subdivision ordinance unless the city and county mutually agree upon any differences making the comments hereby authorized. The county shall consider all comments submitted by the city. Where the jurisdiction one (1) mile area of impact perimeter of two (2) cities overlaps, then the jurisdiction shall be assumed by the larger city both cities shall be notified and allowed to submit comments.~~

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 29, 1999.

CHAPTER 392
(H.B. No. 210, As Amended)

AN ACT
RELATING TO RENEWABILITY OF COVERAGE FOR INDIVIDUAL HEALTH BENEFIT PLANS; AMENDING SECTION 41-5207, IDAHO CODE, TO REDEFINE EXCEPTIONS FOR RENEWABILITY OF COVERAGE FOR AN INDIVIDUAL HEALTH BENEFIT PLAN.

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

SECTION 1. That Section 41-5207, Idaho Code, be, and the same is hereby amended to read as follows:

41-5207. RENEWABILITY OF COVERAGE. (1) A health benefit plan subject to the provisions of this chapter shall be renewable with respect to the individual or dependents, at the option of the individual, except in any of the following cases:

- (a) Nonpayment of the required premiums;
- (b) Fraud or intentional misrepresentation of material fact by the individual insured or his representatives. An individual whose coverage is terminated for fraud or misrepresentation shall not be deemed to be an "eligible individual" for a period of twelve (12) months from the effective date of the termination of the individual's coverage and shall not be deemed to have "qualifying previous coverage" under chapter 22, 47 or 52, title 41, Idaho Code;
- (c) ~~The individual's residence or workplace changes to one which is outside the established geographic service area, but only for coverage under a restricted provider network within a managed care plan ceases to be an eligible individual as defined in section 41-5203(14), Idaho Code;~~
- (d) In the case of health benefit plans that are made available in the individual market only through one (1) or more associations, as defined in section 41-2202, Idaho Code, the membership of an individual in the association, on the basis of which the coverage is provided ceases, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor relating to any covered individual;
- (e) The individual carrier elects to nonrenew all of its health benefit plans delivered or issued for delivery to individuals in this state. In such a case the carrier shall:
 - (i) Provide advance notice of its decision under this paragraph to the director; and
 - (ii) Provide notice of the decision not to renew coverage to all affected individuals and to the director at least one hundred eighty (180) days prior to the nonrenewal of any health benefit plans by the carrier. Notice to the director under the provisions of this paragraph shall be provided at least three (3) working days prior to the notice to the affected individuals; or
- (f) The director finds that the continuation of the coverage would:
 - (i) Not be in the best interests of the policyholders or certificate holders; or
 - (ii) Impair the carrier's ability to meet its contractual obligations.

In such instance, the director shall assist affected individuals in finding replacement coverage.

(2) An individual carrier that elects not to renew a health benefit plan under the provisions of subsection (1)(e) of this section shall be prohibited from writing new business in the individual market in this state for a period of five (5) years from the date of notice to the director.

(3) In the case of an individual carrier doing business in one (1) established geographic service area of the state, the rules set forth in this subsection shall apply only to the carrier's operations in that service area.

Approved March 29, 1999.

CHAPTER 393
(H.B. No. 217)

AN ACT

RELATING TO MAXIMUM GROSS WEIGHT OF VEHICLES; AMENDING SECTION 40-511, IDAHO CODE, TO INCREASE THE MAXIMUM GROSS WEIGHT GOVERNING THE REQUIREMENT THAT A VEHICLE MUST STOP FOR INSPECTION.

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

SECTION 1. That Section 40-511, Idaho Code, be, and the same is hereby amended to read as follows:

40-511. STOPPING AND INSPECTION. (1) Wherever by the laws of the state of Idaho any vehicle with a maximum gross weight of eighteen twenty-six thousand one (~~1826,000~~) pounds or more, excepting those transporting livestock or placardable quantities of hazardous materials, is used to transport any merchandise, product or commodity within the state, within the state to without the state, or from without the state to within the state, the owner or operator of either the motor vehicle or trailer, as defined in chapter 1, title 49, Idaho Code, used to transport such merchandise, product or commodity is hereby required to stop at such ports of entry or checking stations established by the Idaho transportation department and submit to inspection, grading or weighing, for compliance with the laws of the state of Idaho.

(2) Vehicles or combinations of vehicles with a maximum gross weight of ten thousand (10,000) pounds or more transporting livestock or placardable quantities of hazardous materials are required to stop at all ports of entry or checking stations established by the Idaho transportation department.

(3) It shall be the duty of such owner or operator of every motor vehicle or trailer to drive the motor vehicle or trailer upon any state owned stationary or portable scale or private scale, certified by the state of Idaho when requested to do so by any peace officer, excepting fish and game officers, or authorized employees of the Idaho transportation department.

(4) Authorized employees of the transportation department may stop any vehicle with a maximum gross weight of eighteen thousand (18,000) pounds or more by displaying a flashing red light if the authorized employee has probable cause to believe the vehicle bypassed a weighing or inspection station or proceeded through the station without regard for the directional signals. Authorized employees may direct a vehicle which has bypassed a weighing or inspection station or has proceeded through the station without regard for the directional signals, to return to the bypassed inspection or weighing station and may issue a citation for failure to stop as required in this section. The operator of a vehicle shall bring the vehicle to a stop, pulling off the traveled portion of the highway when directed to do so by an authorized employee of the transportation department by use of emergency lights or siren.

Approved March 29, 1999.

CHAPTER 394
(S.B. No. 1115)

AN ACT

RELATING TO SIMULCAST OR TELEVISED DOG RACES; AMENDING SECTION 54-2514, IDAHO CODE, TO REMOVE THE SUNSET CLAUSE; AND AMENDING SECTION 54-2514A, IDAHO CODE, TO REMOVE THE SUNSET CLAUSE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-2514, Idaho Code, be, and the same is hereby amended to read as follows:

54-2514. DOG RACING -- DISTRIBUTION OF DEPOSITS -- BREAKAGE. (1) Each licensee conducting the pari-mutuel system for simulcast or televised dog races shall distribute all sums deposited in any pool as follows:

(a) Seventy-nine and one-half percent (79.5%) of any win, place or show pool to the winner thereof, and twenty and one-half percent (20.5%) to the licensee;

(b) Seventy-seven percent (77%) of all two (2) dog exotic wagers including, but not limited to, daily doubles and quinellas to the winner thereof, and twenty-three percent (23%) to the licensee;

(c) Seventy-five percent (75%) of all three (3) or more dog exotic wagers including, but not limited to, trifecta, twin trifecta, pick three, pick six and superfecta, to the winner thereof, and twenty-five percent (25%) to the licensee.

(2) Each licensee conducting the pari-mutuel system for simulcast or televised dog races shall retain the sums deposited in any pool as required in subsection (1) of this section, for distribution and payment based upon gross daily receipts as follows:

(a) One and one-quarter percent (1.25%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for deposit in the racing commission account.

(b) One percent (1%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for payment to the county in which the dog racing facility is located. The board of county commissioners shall spend such revenues only for visitor promotion.

(c) One-half percent (.5%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for deposit in the Idaho horse breeders' and owners' award account in the state treasury for further distribution as follows:

(i) Fifty percent (50%) of all moneys deposited in the Idaho horse breeders' and owners' award account shall be distributed by the racing commission annually but not later than December 15, to the breeders of Idaho bred winners of each approved horse race in Idaho in proportion to the handle generated by each breed; and

(ii) Fifty percent (50%) of all moneys deposited in the Idaho horse breeders' and owners' award account shall be dis-

tributed by the racing commission annually but not later than December 15, in equal amounts to owners of Idaho bred horse race winners.

(d) From the balance of gross daily receipts remaining with the licensee after the distributions required in subsections (1)(a), (b) and (c) of this section from simulcast or televised dog races, the following amounts shall be paid or retained:

(i) From the first twenty thousand dollars (\$20,000) of gross daily receipts, the licensee shall retain the entire amount;

(ii) From the next ten thousand dollars (\$10,000) of gross daily receipts, (gross daily receipts between twenty thousand dollars (\$20,000) and thirty thousand dollars (\$30,000)) the public school income fund shall receive one-quarter of one percent (.25%) and the licensee shall retain the balance;

(iii) From the next ten thousand dollars (\$10,000) of gross daily receipts (gross daily receipts between thirty thousand dollars (\$30,000) and forty thousand dollars (\$40,000)) the public school income fund shall receive one and one-quarter percent (1.25%) and the licensee shall retain the balance;

(iv) From all amounts of over forty thousand dollars (\$40,000) of gross daily receipts, the public school income fund shall receive two and one-quarter percent (2.25%) and the licensee shall retain the balance.

(3) Each licensee may retain the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of ten (10), known as breakage, and the total amount of unclaimed tickets at the termination of the time allowed by rule of the commission.

~~(4)--Notwithstanding--the--foregoing--no--simulcast--or--televised--dog--races--shall--be--permitted--to--be--conducted--in--this--state--on--and--after--July--1--1999--~~

SECTION 2. That Section 54-2514A, Idaho Code, be, and the same is hereby amended to read as follows:

54-2514A. DOG RACING ILLEGAL AFTER THE EFFECTIVE DATE OF THIS ACT. On and after the effective date of this act, live dog races and pari-mutuel betting on such races or the training of dogs to compete in live dog races shall be illegal ~~to be conducted~~ in the state of Idaho. The provisions of this section shall not be deemed to alter or affect simulcasts and simulcast pari-mutuel wagering at a facility that was licensed and authorized prior to January 1, 1996, to conduct live dog races and pari-mutuel wagering on them prior to the effective date of this act, and such simulcasts and pari-mutuel wagering on such simulcasts may be conducted at that facility as if the facility were still licensed and under the same conditions and restrictions imposed by law on a licensee, ~~until July 1, 1999~~. Any person participating or conducting a live dog race or pari-mutuel betting on such a live dog race or the training of dogs to compete in live dog races in violation of this section shall be guilty of a felony.

Approved March 29, 1999.

CHAPTER 395
(S.B. No. 1157, As Amended, As Amended)

AN ACT

RELATING TO PRELITIGATION SCREENING OF CLAIMS AGAINST LICENSED NURSING FACILITIES; AMENDING TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 23, TITLE 6, IDAHO CODE, TO PROVIDE FOR A HEARING PANEL FOR PRELITIGATION CONSIDERATION OF NEGLIGENCE OR WRONGFUL DEATH CLAIMS AGAINST NURSING FACILITIES, TO PROVIDE FOR APPOINTMENT OF THE PANEL, TO PROVIDE FEES AND CONFIDENTIALITY AND TO PROVIDE APPLICATION OF LAW TO THE PANEL'S DELIBERATIONS; AMENDING SECTION 54-1604, IDAHO CODE, TO AUTHORIZE THE BOARD TO COLLECT FEES; AMENDING SECTION 9-340C, IDAHO CODE, AS ADDED BY HOUSE BILL 93, ENACTED BY THE FIRST REGULAR SESSION, FIFTY-FIFTH IDAHO LEGISLATURE, TO PROVIDE THAT RECORDS OF A PRELITIGATION PANEL CONDUCTED PURSUANT TO CHAPTER 23, TITLE 6, IDAHO CODE, SHALL BE EXEMPT FROM DISCLOSURE, TO PROVIDE THAT RECORDS OF THE DEPARTMENT OF HEALTH AND WELFARE RELATING TO A SURVEY, RESURVEY OR COMPLAINT INVESTIGATION OF A LICENSED NURSING FACILITY SHALL BE EXEMPT FROM DISCLOSURE FOR A LIMITED PERIOD OF TIME AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 23, Title 6, Idaho Code, and to read as follows:

CHAPTER 23
CLAIMS AGAINST NURSING FACILITIES

6-2301. PRELITIGATION HEARING PANEL -- LICENSED NURSING FACILITIES. In the event of an alleged negligence or wrongful death case involving a claim for damages against a licensed nursing facility operating in the state of Idaho, the Idaho state board of examiners of nursing home administrators is directed to cooperate in providing a prelitigation hearing panel. The panel shall operate in the nature of a special civil grand jury and procedure for prelitigation consideration of personal injury and wrongful death claims for damages arising out of the provision of or alleged failure to provide medical, nursing, or health care services in the state of Idaho. The proceedings shall be informal and nonbinding, but shall be compulsory as a condition precedent to litigation. Proceedings conducted or maintained under the authority of this chapter shall at all times be subject to disclosure according to chapter 3, title 9, Idaho Code. Formal rules of evidence shall not apply and all proceedings shall be expeditious and informal.

6-2302. APPOINTMENT OF HEARING PANEL. The board of examiners of nursing home administrators shall provide for and appoint an appropriate panel or panels to accept and hear complaints of negligence and damages, made by or on behalf of any patient who is an alleged victim

of negligence. The panels shall include one (1) person who is a then serving licensed administrator of a licensed nursing facility in the state of Idaho. One (1) additional member of each such panel shall be appointed by the commissioners of the Idaho state bar, which person shall be a resident lawyer licensed to practice law in the state of Idaho, and shall serve as chairman of the panel. The panelists so appointed shall select by unanimous decision a layman panelist who shall not be a lawyer, doctor or nursing facility employee but who shall be a responsible adult citizen of Idaho. All panelists shall swear under oath that they are without bias or conflict of interest as respects any matter under consideration.

6-2303. FEES -- CONFIDENTIALITY. The Idaho state board of examiners of nursing home administrators shall provide, by uniform policy of the board, for the payment of fees and expenses of members of panels, such payment to be made from the occupational licenses fund. Panel members shall serve upon the sworn commitment that all related matters shall be subject to disclosure according to chapter 3, title 9, Idaho Code, and privileged.

6-2304. APPLICATION OF LAWS. Sections 6-1003, 6-1004, 6-1005, 6-1006, 6-1007, 6-1008, 6-1009 and 6-1011, Idaho Code, shall apply to prelitigation panels conducted pursuant to this chapter.

SECTION 2. That Section 54-1604, Idaho Code, be, and the same is hereby amended to read as follows:

54-1604. FUNCTIONS AND DUTIES OF BOARD -- FEE FOR LICENSE APPLICANTS -- RULES AND REGULATIONS. (1) It shall be the functions and duties of such board to:

- (a) Develop, impose, and enforce standards consistent with this act which shall be met by individuals in order to receive and retain a license as a nursing home administrator which standard shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;
- (b) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;
- (c) Issue licenses and registrations to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses and registrations previously issued by the board in any case where the individual holding any such license or registration is determined substantially to have failed to conform to the requirements of such standards;
- (d) Establish and carry out procedures designated to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;
- (e) Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the board charging

that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards;

(f) Conduct a continuing study and investigation of administrators of nursing homes within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such;

(g) The fee to be paid by applicants for licenses, recertification of registration and applicants seeking a reciprocal endorsement of a license issued by the proper authorities in another state, shall be set by board rule in an amount not to exceed eighty-five dollars (\$85.00).

(2) The board or any committee or member thereof or any hearing officer designated by such board, acting in an official capacity, shall have powers and duties as provided by law.

Such board shall not be bound by the strict rules of evidence in the conduct of its proceedings but any determinations made shall be founded upon sufficient legal evidence to sustain them.

(3) The board shall also have the authority to make rules not inconsistent with law as may be necessary for the proper performance of its duties, and to take such other actions as may be necessary to enable the state to meet the requirements set forth in section 1908 of the "Social Security Act," the federal rules promulgated thereunder, and other pertinent federal requirements.

(4) The board shall have the authority to collect from the state association representing nursing homes in Idaho an amount as is necessary to fully reimburse the board for all expenses relating to prelitigation panels conducted pursuant to chapter 23, title 6, Idaho Code. Funds collected by the board pursuant to this subsection shall be deposited into the occupational licenses fund.

SECTION 3. That Section 9-340C, Idaho Code, as added by House Bill 93, enacted by the First Regular Session of the Fifty-fifth Idaho Legislature, be, and the same is hereby amended to read as follows:

9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure:

(1) 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.

(2) 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.

(3) 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.

(4) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records.

(5) 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.

(6) 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.

(7) Employment security information and unemployment insurance benefit information, except that all interested parties may agree to waive the exemption.

(8) 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.

(9) 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.

(10) The records, finding, determinations and decision of any prelitigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

(11) Board of professional discipline reprimands by informal admonition pursuant to subsection (6)(f) of section 54-1806A, Idaho Code.

(12) Records of the department of health and welfare or a public health district that identify a person infected with a reportable disease.

(13) 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.

(14) Information collected pursuant to the directory of new hires act, chapter 16, title 72, Idaho Code.

(15) Personal information contained in motor vehicle and driver records that is exempt from disclosure under the provisions of chapter 2, title 49, Idaho Code.

(16) Records of the financial status of prisoners pursuant to subsection (2) of section 20-607, Idaho Code.

(17) Records of the department of law enforcement or department of correction received or maintained pursuant to section 19-5514, Idaho Code, relating to DNA databases and databanks.

(18) Records of the department of health and welfare relating to a survey, resurvey or complaint investigation of a licensed nursing facility shall be exempt from disclosure. Such records shall, however, be subject to disclosure as public records on and after the fourteenth day following the date that department of health and welfare representatives officially exit the facility pursuant to federal regulations. Provided however, that for purposes of confidentiality, no record shall be released under this section which specifically identifies any nursing facility resident.

SECTION 4. 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 29, 1999.

CHAPTER 396
(S.B. No. 1201)

AN ACT

RELATING TO THE LOCAL LAND USE PLANNING ACT; AMENDING SECTION 67-6501, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 67-6502, IDAHO CODE, TO DELETE REFERENCES TO ENHANCEMENT OF PROPERTY VALUES, THE STATE AND LOCAL ECONOMY AND ENVIRONMENTAL FEATURES FROM THE PURPOSE OF THE ACT; AMENDING SECTION 67-6504, IDAHO CODE, TO CLARIFY THAT A GOVERNING BOARD NEED NOT FOLLOW THE PROCEDURAL REQUIREMENTS FOR PLANNING AND ZONING COMMISSIONS IF IT EXERCISES THE POWERS REQUIRED AND AUTHORIZED BY THE CHAPTER, TO CLARIFY THAT A PLANNING AND ZONING COMMISSION MAY NOT FINALLY APPROVE LAND SUBDIVISIONS, TO CLARIFY TERMINOLOGY, TO PROVIDE THAT A MAJORITY OF CURRENTLY-APPOINTED VOTING MEMBERS OF THE COMMISSION SHALL CONSTITUTE A QUORUM, TO CLARIFY THAT COMMISSION FUND RECEIPTS AND EXPENDITURES ARE TO PROCEED THROUGH THE LEGALLY REQUIRED BUDGETARY PROCESS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6506, IDAHO CODE, TO SPECIFY THAT A MEMBER OF A GOVERNING BOARD OR A PLANNING AND ZONING COMMISSION WITH A CONFLICT OF INTEREST MAY NOT PARTICIPATE IN THE DECISION-MAKING PROCESS, TO SPECIFY THE CONDUCT IN WHICH THE MEMBER MAY ENGAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-6509, IDAHO CODE, TO PROVIDE THAT IF THE PLANNING AND ZONING COMMISSION RECOMMENDS A CHANGE TO A PROPOSED AMENDMENT TO THE COMPREHENSIVE PLAN IT SHALL GIVE NOTICE OF ITS RECOMMENDATION AND CONDUCT ANOTHER PUBLIC HEARING IF THE GOVERNING BOARD WILL NOT CONDUCT A SUBSEQUENT PUBLIC HEARING OR IF THE GOVERNING BOARD WILL CONDUCT A HEARING, NOTICE OF THE COMMISSION'S RECOMMENDATION SHALL BE INCLUDED IN THE NOTICE PROVIDED BY THE GOVERNING BOARD, TO PROVIDE FOR AN OPTIONAL PUBLIC HEARING BY THE GOVERNING BOARD IN ADDITION TO THE HEARING CONDUCTED BY THE COMMISSION, TO PROVIDE FOR A HEARING IF THE GOVERNING BOARD MAKES A MATERIAL CHANGE IN THE COMMISSION'S RECOMMENDATION, TO PROVIDE CLARIFYING TERMINOLOGY, TO PROVIDE FOR ENACTMENT OR AMENDMENT OF A PLAN BY RESOLUTION, TO PROVIDE THAT A COMMISSION MAY RECOMMEND AMENDMENTS TO THE LAND USE MAP COMPONENT OF THE COMPREHENSIVE PLAN ONLY ONCE EVERY SIX MONTHS AND MAY RECOMMEND AMENDMENTS TO THE TEXT OF THE PLAN AT ANY TIME; AMENDING SECTION 67-6509A, IDAHO CODE, TO AUTHORIZE AMENDMENT OF THE PLAN BY RESOLUTION FOR SITING OF MANUFACTURED HOMES IN RESIDENTIAL AREAS AND TO PROVIDE A CORRECT CITATION; AMENDING SECTION 67-6509B, IDAHO CODE, TO DELETE INCORRECT TERMINOLOGY, TO REMOVE THE REFERENCE TO COMMON OWNERSHIP OF LAND IN THE DEFINITION OF A MANUFACTURED HOUSING COMMUNITY AND TO PROVIDE CORRECT NOMENCLATURE; AMENDING SECTION 67-6511, IDAHO CODE, TO PROVIDE CLARIFYING LANGUAGE, TO PROVIDE THE INFORMATION TO BE CONSIDERED BY THE PLANNING AND ZONING COMMISSION AND THE GOVERNING BOARD IN CONSIDERING AMENDMENTS TO A ZONING ORDINANCE, TO PROVIDE FOR PUBLICATION OF NOTICE IN ADDITION TO SITE POSTING IN THE CASE OF A ZONING DISTRICT BOUNDARY CHANGE IN THE ABSENCE OF A LOCALLY ADOPTED ALTERNATIVE NOTICE PROCEDURE, TO PROVIDE THE ACTIONS TO BE TAKEN BY THE GOVERNING BOARD IF A REQUEST FOR A ZONING ORDINANCE AMENDMENT IS IN CONFLICT WITH THE

ADOPTED PLAN OR ADVERSELY IMPACTS SERVICE DELIVERY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-6511A, IDAHO CODE, TO PROVIDE CORRECT NOMENCLATURE AND TO REQUIRE A PUBLIC HEARING FOR MODIFICATION OR TERMINATION OF A CONDITIONAL COMMITMENT; AMENDING SECTION 67-6512, IDAHO CODE, TO PROVIDE FOR GRANTING OF A SPECIAL USE PERMIT IF THE PROPOSED USE IS CONDITIONALLY PERMITTED BY THE ORDINANCE, TO PROVIDE FOR PUBLICATION OF NOTICE IN ADDITION TO SITE POSTING IN THE ABSENCE OF A LOCALLY ADOPTED ALTERNATIVE NOTICE PROCEDURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-6513, IDAHO CODE, TO REQUIRE THAT FEES ESTABLISHED FOR PURPOSES OF MITIGATING THE FINANCIAL IMPACTS OF DEVELOPMENT MUST COMPLY WITH CHAPTER 82, TITLE 67, IDAHO CODE; AMENDING SECTION 67-6515, IDAHO CODE, TO PROVIDE THAT PLANNED UNIT DEVELOPMENTS MAY BE PERMITTED PURSUANT TO PROCEDURES FOR PROCESSING APPLICATIONS FOR SPECIAL USE PERMITS; AMENDING SECTION 67-6516, IDAHO CODE, TO PROVIDE THAT A VARIANCE IS A MODIFICATION OF THE BULK AND PLACEMENT REQUIREMENTS OF A ZONING ORDINANCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6520, IDAHO CODE, TO CLARIFY THE AUTHORITY OF A HEARING EXAMINER; AMENDING SECTION 67-6527, IDAHO CODE, TO PROVIDE THAT A GOVERNING BOARD MAY DECLARE IT A MISDEMEANOR TO VIOLATE A LAND USE ORDINANCE OR REGULATION AND MAY PROVIDE FOR INFRACTION PENALTIES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-6534, IDAHO CODE, TO AUTHORIZE ADOPTION OF PROCEDURES FOR PUBLIC HEARINGS BY RESOLUTION AND TO SPECIFY THE MINIMUM REQUIREMENTS FOR HEARING PROCEDURES; AMENDING SECTION 67-6535, IDAHO CODE, TO PROVIDE FOR A REASONED STATEMENT APPROVING OR DENYING AN APPLICATION WHICH EXPLAINS THE RELEVANT STANDARDS, RELEVANT CONTESTED FACTS RELIED UPON AND EXPLAINS THE RATIONALE FOR THE DECISION BASED ON THE COMPREHENSIVE PLAN, ORDINANCE AND STATUTORY PROVISIONS, CONSTITUTIONAL PRINCIPLES AND FACTUAL INFORMATION IN THE RECORD, TO PROVIDE LEGISLATIVE INTENT CONCERNING THE MATTERS TO BE CONSIDERED BY THE COURTS IN REVIEWING DECISIONS AND TO PROVIDE THAT ENTITLEMENT TO A REMEDY OR REVERSAL OF A DECISION SHALL REQUIRE ACTUAL HARM OR VIOLATION OF FUNDAMENTAL RIGHTS; AND AMENDING SECTION 67-6536, IDAHO CODE, TO SPECIFY THE PROCEEDING FOR WHICH A TRANSCRIBABLE VERBATIM RECORD MUST BE MAINTAINED.

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

SECTION 1. That Section 67-6501, Idaho Code, be, and the same is hereby amended to read as follows:

67-6501. SHORT TITLE. This act shall be known as the "Local Land Use Planning Act." ~~of 1975.~~

SECTION 2. That Section 67-6502, Idaho Code, be, and the same is hereby amended to read as follows:

67-6502. PURPOSE. The purpose of this act shall be to promote the health, safety, and general welfare of the people of the state of Idaho as follows:

(a) To protect property rights ~~and enhance property values~~ while making accommodations for other necessary types of development such as

low-cost housing and mobile home parks.

(b) To ensure that adequate public facilities and services are provided to the people at reasonable cost.

(c) To ensure that the economy of the state and localities is protected, ~~and-enhanced.~~

(d) To ensure that the important environmental features of the state and localities are protected, ~~and-enhanced.~~

(e) To encourage the protection of prime agricultural, forestry, and mining lands for production of food, fibre, and minerals.

(f) To encourage urban and urban-type development within incorporated cities.

(g) To avoid undue concentration of population and overcrowding of land.

(h) To ensure that the development on land is commensurate with the physical characteristics of the land.

(i) To protect life and property in areas subject to natural hazards and disasters.

(j) To protect fish, wildlife, and recreation resources.

(k) To avoid undue water and air pollution.

(l) To allow local school districts to participate in the community planning and development process so as to address public school needs and impacts on an ongoing basis.

SECTION 3. That Section 67-6504, Idaho Code, be, and the same is hereby amended to read as follows:

67-6504. PLANNING AND ZONING COMMISSION -- CREATION -- MEMBERSHIP -- ORGANIZATION -- RULES -- RECORDS -- EXPENDITURES -- STAFF. A city council or board of county commissioners, hereafter referred to as a governing board, may exercise all of the powers required and authorized by this chapter in accordance with this chapter. If a governing board chooses to exercise the powers required and authorized by this chapter it need not follow the procedural requirements established hereby solely for planning and zoning commissions. If a governing board does not elect to exercise the powers conferred by this chapter, it shall establish by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided in section 67-6509, Idaho Code, a planning commission and a zoning commission or a planning and zoning commission acting in both capacities, which may act with the full authority of the governing board, excluding the authority to adopt ordinances or to finally approve land subdivisions. The powers of the board of county commissioners conferred by this chapter shall apply to the unincorporated area of the county. Legally authorized planning, zoning, or planning and zoning commissions existing prior to enactment of this chapter shall be considered to be duly constituted under this chapter, ~~unless-changed-in-accordance-with--the notice--and--hearing--procedures--provided-in-section--67-6509;--Idaho Code.~~ Within this chapter use of the term "planning and zoning commission" shall include the term "planning commission," "zoning commission" and "planning and zoning commission."

(a) Membership -- Each commission shall consist of not less than three (3) nor more than twelve (12) voting members, all appointed by a mayor or chairman of the county board of commissioners and confirmed

by majority vote of the governing board. An appointed member of a commission must have resided in the county for at least two (2) years prior to his appointment, and must remain a resident of the county during his service on the commission. Not more than one-third (1/3) of the members of any commission appointed by the chairman of the board of county commissioners may reside within an incorporated city of fifteen hundred (1,500) or more population in the county. At least one-half (1/2) of the members of any commission appointed by the chairman of the board of county commissioners must reside outside the boundaries of any city's area of impact. The ordinance establishing a commission to exercise the powers under this chapter shall set forth the number of members to be appointed. The term of office for members shall be not less than three (3) years, nor more than six (6) years, and the length of term shall be prescribed by ordinance. No person shall serve more than two (2) full consecutive terms. Vacancies occurring otherwise than through the expiration of terms shall be filled in the same manner as the original appointment. Members may be removed for cause by a majority vote of the governing board. Members shall be selected without respect to political affiliation and may receive such mileage and per diem compensation as provided by the governing board. If a governing board exercises these powers, its members shall be entitled to no additional mileage or per diem compensation.

(b) Organization -- Each commission shall elect a chairman and create and fill any other office that it may deem necessary. A commission may establish subcommittees, advisory committees or neighborhood groups to advise and assist in carrying out the responsibilities under this chapter. A commission may appoint nonvoting ex officio advisors as may be deemed necessary.

(c) Rules, Records, and Meetings -- Written organization papers or ~~by-laws~~ bylaws consistent with this chapter and other laws of the state for the transaction of business of the commission shall be adopted. A record of meetings, hearings, resolutions, studies, findings, permits, and actions taken shall be maintained. All meetings and records shall be open to the public. At least one (1) regular meeting shall be held each month for not less than nine (9) months in a year. A majority of currently-appointed voting members of the commission shall constitute a quorum.

(d) Expenditures and Staff -- With approval of a governing board through the legally required budgetary process, the commission may receive and expend funds, goods, and services from the federal government or agencies and instrumentalities of state or local governments or from civic and private sources and may contract with these entities and provide information and reports as necessary to secure aid. Expenditures by a commission shall be within the amounts appropriated by a governing board. Within such limits, any commission is authorized to hire or contract with employees and technical advisors, including, but not limited to, planners, engineers, architects, and legal assistants.

SECTION 4. That Section 67-6506, Idaho Code, be, and the same is hereby amended to read as follows:

67-6506. CONFLICT OF INTEREST PROHIBITED. A governing board cre-

ating a planning, zoning, or planning and zoning commission, or joint commission shall provide that the area and interests within its jurisdiction are broadly represented on the commission. A member or employee of a governing board, commission, or joint commission shall not participate in any proceeding or action when the member or employee or his employer, business partner, business associate, or any person related to him by affinity or consanguinity within the second degree has an economic interest in the procedure or action. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. For purposes of this section the term "participation" means engaging in activities which constitute deliberations pursuant to the open meeting act. No member of a governing board or a planning and zoning commission with a conflict of interest shall participate in any aspect of the decision-making process concerning a matter involving the conflict of interest. A member with a conflict of interest shall not be prohibited from testifying at, or presenting evidence to, a public hearing or similar public process after acknowledging nonparticipation in the matter due to a conflict of interest. A knowing violation of this section shall be a misdemeanor.

SECTION 5. That Section 67-6509, Idaho Code, be, and the same is hereby amended to read as follows:

67-6509. RECOMMENDATION AND ADOPTION, AMENDMENT, AND REPEAL OF THE PLAN. (a) The planning or planning and zoning commission, prior to recommending the plan, amendment, or repeal of the plan to the governing board, shall conduct at least one (1) public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the plan to be discussed shall be published in the official newspaper or paper of general circulation within the jurisdiction. The commission shall also make available a notice to other papers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice of intent to adopt, repeal or amend the plan shall be sent to all political subdivisions providing services within the planning jurisdiction, including school districts, at least fifteen (15) days prior to the public hearing scheduled by the commission. Following the commission hearing, if the commission makes recommends a material change ~~in-the~~ to the proposed amendment to the plan; further which was considered at the hearing, it shall give notice and--hearing--shall-be-provided-before-the-commission-forwards the-plan-with of its proposed recommendation to and conduct another public hearing concerning the matter if the governing board will not conduct a subsequent public hearing concerning the proposed amendment. If the governing board will conduct a subsequent public hearing, notice of the planning and zoning commission recommendation shall be included in the notice of public hearing provided by the governing board. A record of the hearings, findings made, and actions taken by the commission shall be maintained by the city or county.

(b) The governing board, as provided by local ordinance, prior to adoption, amendment, or repeal of the plan, shall may conduct at least one (1) public hearing, in addition to the public hearing(s) conducted

by the commission, using the same notice and hearing procedures as the commission. The governing board shall not hold a public hearing, give notice of a proposed hearing, nor take action upon the plan, amendments, or repeal until recommendations have been received from the commission. Following ~~the hearing of~~ consideration by the governing board, if the governing board makes a material change in the recommendation or alternative options contained in the recommendation by the commission concerning adoption, amendment or repeal of a plan, further notice and hearing shall be provided before the governing board adopts, amends or repeals the plan.

(c) No plan shall be effective unless adopted by resolution or ordinance by the governing board. ~~An ordinance~~ resolution enacting or amending a plan or part of a plan may be adopted, amended, or repealed by definitive reference as provided for in sections 31-715 and 50-901, Idaho Code, three (3) copies of which to the specific plan document. A copy of the adopted or amended plan shall accompany each adopting resolution and shall be kept on file with the city clerk or county clerk.

(d) Any person may petition the commission or, in absence of a commission, the governing board, for a plan amendment at any time. The commission may recommend amendments to the land use map component of the comprehensive plan to the governing board not more frequently than once every six (6) months. ~~to correct errors in the original plan or to recognize substantial changes in the actual conditions in the area.~~ The commission may recommend amendments to the text of the comprehensive plan and to other ordinances authorized by this chapter to the governing board at any time.

SECTION 6. That Section 67-6509A, Idaho Code, be, and the same is hereby amended to read as follows:

67-6509A. SITING OF MANUFACTURED HOMES IN RESIDENTIAL AREAS -- PLAN TO BE AMENDED. (1) ~~On or before July 1, 1996, by~~ resolution or ordinance adopted, amended or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, each governing board shall amend its comprehensive plan and land use regulations for all land zoned for single-family residential uses, except for lands falling within an area defined as a historic district under section 67-4607, Idaho Code, to allow for siting of manufactured homes as defined in section 39-4105(143), Idaho Code.

(2) Manufactured homes on individual lots zoned for single-family residential uses as provided in subsection (1) of this section shall be in addition to manufactured homes on lots within designated mobile home parks or manufactured home subdivisions.

(3) This section shall not be construed as abrogating a recorded restrictive covenant.

(4) A governing board may adopt any or all of the following placement standards, or any less restrictive standards, for the approval of manufactured homes located outside mobile home parks:

(a) The manufactured home shall be multisectional and enclose a space of not less than one thousand (1,000) square feet;

(b) The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the

home is located not more than twelve (12) inches above grade;

(c) The manufactured home shall have a pitched roof, except that no standards shall require a slope of greater than a nominal three (3) feet in height for each twelve (12) feet in width;

(d) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority;

(e) The manufactured home shall have a garage or carport constructed of like materials. A governing board may require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings;

(f) In addition to the provisions of paragraphs (a) through (e) of this subsection, a city or county may subject a manufactured home and the lot upon which it is sited to any development standard, architectural requirement and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subjected.

(5) Any approval standards, special conditions and the procedures for approval adopted by a local government shall be clear and objective and shall not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

SECTION 7. That Section 67-6509B, Idaho Code, be, and the same is hereby amended to read as follows:

67-6509B. MANUFACTURED HOUSING COMMUNITY -- EQUAL TREATMENT REQUIRED. A city or a county shall not adopt or enforce zoning, community development or subdivision ~~regulations or ordinances~~ provisions which disallow the plans and specifications of a manufactured housing community solely because the housing within the community will be manufactured housing. Applications for development of manufactured home communities shall be treated the same as those for site-built homes. For purposes of this section, "manufactured housing community" means any site, lot or tract of land ~~under common ownership~~ upon which ten (10) or more manufactured homes may be sited. The ~~developed~~ manufactured housing community may feature either fee simple land sales or land leased or rented by the homeowner.

SECTION 8. That Section 67-6511, Idaho Code, be, and the same is hereby amended to read as follows:

67-6511. ZONING ORDINANCE. Each governing board shall, by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, establish within its jurisdiction one (1) or more zones or zoning districts where appropriate. The zoning districts shall be in accordance with the policies set forth in the adopted comprehensive plan.

Within a zoning district, the governing board shall where appro-

prate, establish standards to regulate and restrict the height, number of stories, size, construction, reconstruction, alteration, repair or use of buildings and structures; percentage of lot occupancy, size of courts, yards, and open spaces; density of population; and the location and use of buildings and structures. All standards shall be uniform for each class or kind of buildings throughout each district, but the standards in one (1) district may differ from those in another district.

Ordinances establishing zoning districts shall be amended as follows:

(a) Requests for an amendment to the zoning ordinance shall be submitted to the zoning or planning and zoning commission which shall evaluate the request to determine the extent and nature of the amendment requested. Particular consideration shall be given to the effects of any proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction.

(b) ~~If the request is in accordance with~~ After considering the adopted comprehensive plan and other evidence gathered through the public hearing process, the zoning or planning and zoning commission may recommend and the governing board may adopt or reject the an ordinance amendment under pursuant to the notice and hearing procedures provided in section 67-6509, Idaho Code, provided that in the case of a zoning district boundary change, additional notice shall be provided by mail to property owners or purchasers of record within the land being considered, and within three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be impacted by the proposed change as determined by the commission. Notice shall also be posted on the premises not less than one (1) week prior to the hearing. When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be provided by local ordinance in lieu of posted or mailed notice. In the absence of a locally adopted alternative notice procedure, sufficient notice shall be deemed to have been provided if the city or county provides notice through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the city or county at least fifteen (15) days prior to the hearing date, in addition to site posting on all external boundaries of the site.

(c) If the request is ~~not in accordance~~ found by the governing board to be in conflict with the adopted plan, or would result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction, the governing board may require the request shall to be submitted to the planning or zoning and zoning commission or, in absence of a commission, the governing board, ~~which shall recommend and the governing board may adopt or reject~~ consider an amendment to the comprehensive plan under pursuant to the notice and hearing procedures provided in section 67-6509, Idaho Code. After the plan has been amended, the zoning ordinance may then be ~~amended as provided for under~~ considered for amendment pursuant to section 67-6511(b), Idaho Code.

(d) If a governing board adopts a zoning classification pursuant

to a request by a property owner based upon a valid, existing comprehensive plan and zoning ordinance, the governing board shall not subsequently reverse its action or otherwise change the zoning classification of said property without the consent in writing of the current property owner for a period of four (4) years from the date the governing board adopted said individual property owner's request for a zoning classification change. If the governing body does reverse its action or otherwise change the zoning classification of said property during the above four (4) year period without the current property owner's consent in writing, the current property owner shall have standing in a court of competent jurisdiction to enforce the provisions of this section.

SECTION 9. That Section 67-6511A, Idaho Code, be, and the same is hereby amended to read as follows:

67-6511A. DEVELOPMENT AGREEMENTS. Each governing board may, by ordinance adopted or amended in accordance with the notice and hearing provisions provided under section 67-6509, Idaho Code, require or permit as a condition of rezoning that an owner or developer make a written commitment concerning the use or development of the subject parcel. The governing board shall adopt ~~rules~~ ordinance provisions governing the creation, form, recording, modification, enforcement and termination of conditional commitments. Such ~~c~~ommitments shall be recorded in the office of the county recorder and shall take effect upon the adoption of the amendment to the zoning ordinance. Unless modified or terminated by the governing board after a public hearing, a commitment is binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel. A commitment is binding on the owner of the parcel even if it is unrecorded; however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment. A commitment may be modified only by the permission of the governing board after complying with the notice and hearing provisions of section 67-6509, Idaho Code. A commitment may be terminated, and the zoning designation upon which the use is based reversed, upon the failure of the requirements in the commitment after a reasonable time as determined by the governing board or upon the failure of the owner; each subsequent owner or each other person acquiring an interest in the parcel to comply with the conditions in the commitment and after complying with the notice and hearing provisions of section 67-6509, Idaho Code. By permitting or requiring commitments by ordinance the governing board does not obligate itself to recommend or adopt the proposed zoning ordinance. A written commitment shall be deemed written consent to rezone upon the failure of conditions imposed by the commitment in accordance with the provisions of this section.

SECTION 10. That Section 67-6512, Idaho Code, be, and the same is hereby amended to read as follows:

67-6512. SPECIAL USE PERMITS, CONDITIONS, AND PROCEDURES. (a) As part of a zoning ordinance each governing board may provide by ordi-

nance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, for the processing of applications for special or conditional use permits. A special use permit may be granted to an applicant if the proposed use is ~~otherwise prohibited~~ conditionally permitted by the terms of the ordinance, ~~but may be allowed with~~ subject to conditions under pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan.

(b) Prior to granting a special use permit, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place, and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice shall be posted on the premises not less than one (1) week prior to the hearing. Notice shall also be provided to property owners or purchasers of record within the land being considered, three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed special use as determined by the commission.

(c) When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be provided by local ordinance in lieu of mailed notice. In the absence of a locally adopted alternative notice procedure, sufficient notice shall be deemed to have been provided if the city or county provides notice through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the city or county at least fifteen (15) days prior to the hearing date, in addition to site posting on all external boundaries of the site.

(d) Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:

- (1) Minimizing adverse impact on other development;
- (2) Controlling the sequence and timing of development;
- (3) Controlling the duration of development;
- (4) Assuring that development is maintained properly;
- (5) Designating the exact location and nature of development;
- (6) Requiring the provision for on-site or off-site public facilities or services;
- (7) Requiring more restrictive standards than those generally required in an ordinance;
- (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

(e) Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use per-

mits. A special use permit is not transferable from one (1) parcel of land to another.

SECTION 11. That Section 67-6513, Idaho Code, be, and the same is hereby amended to read as follows:

67-6513. SUBDIVISION ORDINANCE. Each governing board shall provide, by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, for standards and for the processing of applications for subdivision permits under sections 50-1301 through 50-1329, Idaho Code. Each such ordinance may provide for mitigation of the effects of subdivision development on the ability of political subdivisions of the state, including school districts, to deliver services without compromising quality of service delivery to current residents or imposing substantial additional costs upon current residents to accommodate the proposed subdivision. Fees established for purposes of mitigating the financial impacts of development must comply with the provisions of chapter 82, title 67, Idaho Code.

SECTION 12. That Section 67-6515, Idaho Code, be, and the same is hereby amended to read as follows:

67-6515. PLANNED UNIT DEVELOPMENTS. As part of or separate from the zoning ordinance, each governing board may provide, by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, for the processing of applications for planned unit development permits.

A planned unit development may be defined in a local ordinance as an area of land in which a variety of residential, commercial, industrial, and other land uses are provided for under single ownership or control. Planned unit development ordinances may include, but are not limited to, requirements for minimum area, permitted uses, ownership, common open space, utilities, density, arrangements of land uses on a site, and permit processing. Planned unit developments may be permitted under pursuant to the procedures for processing applications for special use permits ~~as defined in this chapter. Permits for planned unit developments may be granted~~ following the notice and hearing procedures provided in section 67-6512, Idaho Code.

SECTION 13. That Section 67-6516, Idaho Code, be, and the same is hereby amended to read as follows:

67-6516. VARIANCE -- DEFINITION -- APPLICATION -- NOTICE -- HEARING. Each governing board shall provide, as part of the zoning ordinance, for the processing of applications for variance permits. A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship

because of characteristics of the site and that the variance is not in conflict with the public interest. Prior to granting a variance, notice and an opportunity to be heard shall be provided to property owners adjoining the parcel under consideration.

SECTION 14. That Section 67-6520, Idaho Code, be, and the same is hereby amended to read as follows:

67-6520. HEARING EXAMINERS. Hearing examiners include professionally trained or licensed staff planners, engineers, or architects. If authorized by local ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided in section 67-6509, Idaho Code, hearing examiners may be appointed by a governing board or zoning or planning and zoning commission for hearing applications for subdivision, special use and variance permits and requests for zoning district boundary changes which are in accordance with the plan. Notice, hearing, and records before the examiner shall be as provided in this chapter for the zoning or planning and zoning commission. Whenever a hearing examiner hears an application, he ~~shall~~ may, pursuant to local ordinance, grant or deny the application ~~and or~~ submit a recommendation to the governing board or zoning or planning and zoning commission. ~~His decision, which or recommendation~~ shall specify:

- (a) the ordinance and standards used in evaluating the application;
- (b) the reasons for the recommendation or decision; and
- (c) the actions, if any, that the applicant could take to obtain a permit or zoning district boundary change in accordance with the plan.

An applicant denied a permit or aggrieved by a decision may within twenty-eight (28) days after all appellate remedies have been exhausted under local ordinance seek judicial review as provided by chapter 52, title 67, Idaho Code.

SECTION 15. That Section 67-6527, Idaho Code, be, and the same is hereby amended to read as follows:

67-6527. VIOLATIONS -- CRIMINAL PENALTIES -- ENFORCEMENT. A governing board may provide by ordinance for the enforcement of this chapter or any ordinance or regulation made pursuant to this chapter. A violation of any such ordinance or regulation ~~is hereby~~ may be declared a misdemeanor and the governing board may provide by ordinance for punishment thereof by fine or imprisonment or by both, ~~and may seek civil penalties for such violation.~~ Local ordinances adopted pursuant to authority granted by this chapter may be enforced by the imposition of infraction penalties. Except that where property has been made ~~non-conforming~~ nonconforming by the exercise of eminent domain it shall not be a violation and no penalty, either civil or criminal, shall result. In addition, whenever it appears to a governing board that any person has engaged or is about to engage in any act or practice violating any provision of this chapter or an ordinance or regulation enacted pursuant to this chapter, the governing board may institute a civil action in the district court to enforce compliance

with this chapter or any ordinance or regulation enacted hereunder. Upon a showing that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter or ordinance or regulation enacted hereunder, a permanent or temporary injunction, restraining order, or such other relief as the court deems appropriate shall be granted. The governing board shall not be required to furnish bond.

SECTION 16. That Section 67-6534, Idaho Code, be, and the same is hereby amended to read as follows:

67-6534. ADOPTION OF HEARING PROCEDURES. The governing board shall, by ordinance ~~shall~~ or resolution, adopt procedures for the conduct of public hearings. At a minimum such hearing procedures shall provide an opportunity for all affected persons to present and rebut evidence.

SECTION 17. That Section 67-6535, Idaho Code, be, and the same is hereby amended to read as follows:

67-6535. APPROVAL OR DENIAL OF ANY APPLICATION TO BE BASED UPON STANDARDS AND TO BE IN WRITING. (a) The approval or denial of any application provided for in this chapter shall be based upon standards and criteria which shall be set forth in the comprehensive plan, zoning ordinance or other appropriate ordinance or regulation of the city or county.

(b) The approval or denial of any application provided for in this chapter shall be in writing and accompanied by a reasoned statement in the form of findings of fact and conclusions of law that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the justification rationale for the decision based on the criteria, standards and facts set forth applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.

(c) It is the intent of the legislature that decisions made pursuant to this chapter should be founded upon sound reason and practical application of recognized principles of law. In reviewing such decisions, the courts of the state are directed to consider the proceedings as a whole and to evaluate the adequacy of procedures and resultant decisions in light of practical considerations with an emphasis on fundamental fairness and the essentials of reasoned decision-making. Only those whose challenge to a decision demonstrates actual harm or violation of fundamental rights, not the mere possibility thereof, shall be entitled to a remedy or reversal of a decision.

SECTION 18. That Section 67-6536, Idaho Code, be, and the same is hereby amended to read as follows:

67-6536. TRANSCRIBABLE RECORD. In every case in this chapter where an appeal is provided for, a transcribable verbatim record of the proceeding shall be made and kept for a period of not less than six (6) months after a final decision on the matter. The proceeding

envisioned by this statute for which a transcribable verbatim record must be maintained shall include all public hearings at which testimony or evidence is received or at which an applicant or affected person addresses the commission or governing board regarding a pending application or during which the commission or governing board deliberates toward a decision after compilation of the record. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense.

The governing board and commission shall also provide for the keeping of minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law.

Approved March 29, 1999.

CHAPTER 397
(S.B. No. 1269)

AN ACT

RELATING TO VIOLATIONS OF LAWS GOVERNING ALCOHOL BEVERAGES; AMENDING SECTION 23-603, IDAHO CODE, AS AMENDED BY SECTION 3, SENATE BILL 1123, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE, TO PROVIDE THAT A SECOND OR SUBSEQUENT OFFENSE SHALL CONSTITUTE A FELONY; AND AMENDING CHAPTER 6, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-604, IDAHO CODE, TO PROVIDE THAT PURCHASE, CONSUMPTION OR POSSESSION OF AN ALCOHOL BEVERAGE BY A MINOR SHALL BE A MISDEMEANOR.

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

SECTION 1. That Section 23-603, Idaho Code, as amended by Section 3, Senate Bill 1123, as enacted by the First Regular Session of the Fifty-fifth Idaho Legislature be, and the same is hereby amended to read as follows:

23-603. DISPENSING TO MINOR. Any person who shall sell, give, or furnish, or cause to be sold, given, or furnished, alcohol beverage, including any distilled spirits, beer or wine, to a person under the age of twenty-one (21) years shall be guilty of a misdemeanor. A second or subsequent violation of this section by the same defendant shall constitute a felony. Upon conviction of any person for a violation of the provisions of this section, the court shall notify the director of the department of law enforcement. The director shall review the circumstances of the conviction, and if the dispensing took place at a licensed establishment or other retailer or distributor, the director may take administrative action he considers appropriate against the licensee or business including suspension of the license for not to exceed six (6) months, a fine, or both such suspension and fine.

SECTION 2. That Chapter 6, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 23-604, Idaho Code, and to read as follows:

23-604. MINORS -- PURCHASE, CONSUMPTION OR POSSESSION PROHIBITED. Any person under twenty-one (21) years of age who shall purchase, attempt to purchase, or otherwise consume or possess any alcohol beverage, including any distilled spirits, beer or wine, shall be guilty of a misdemeanor and shall be punished according to the schedule set out in section 18-1502, Idaho Code.

Approved March 29, 1999.

SENATE JOINT MEMORIALS

(S.J.M. No. 101)

A JOINT MEMORIAL

TO DR. MICHAEL P. DOMBECK, CHIEF OF THE UNITED STATES FOREST SERVICE, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, forest health problems are well documented and widespread across the state of Idaho; and

WHEREAS, United States Forest Service scientists on the Idaho Panhandle National Forests have stated that Douglas fir bark beetles are killing fir trees all over northern Idaho and eastern Washington in what they say is the most severe beetle outbreak recorded in the area since the 1950's, and is far beyond what is considered normal; and

WHEREAS, the United States Forest Service estimates that 125,000 acres of timber in the Idaho Panhandle National Forests and 24,000 acres of timber in the Colville National Forest are currently under attack by the beetles at epidemic levels. The Idaho Panhandle National Forests plan to treat 25,000 acres. Priority areas for treatment are concentrated in the Priest Lake, Coeur d'Alene River and Newport Ranger Districts; and

WHEREAS, although the United States Forest Service has chosen Alternative D as the preferred alternative for action on the Panhandle National Forests, which they view as the most aggressive of the five proposed actions to harvest dead, dying and downed timber and to allow the potential harvest of trees which may die as the beetle outbreak spreads, they have not looked at treating the total number of acres at extreme risk to Douglas fir bark beetles; and

WHEREAS, in addition, the United States Forest Service estimates that several hundred thousand acres of timber on the Clearwater National Forest are currently under attack from insects and disease; and

WHEREAS, the United States Forest Service has not started any NEPA processes for the insect and disease problems on the Clearwater National Forest.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we strongly support

aggressive, immediate and continued management activities on all acres of Douglas fir bark beetle infested lands on all Idaho national forests, and specifically on the Idaho Panhandle National Forests. Aggressive forest management will enhance and protect the health of our federal forest lands by reducing the effects of catastrophic wildfire which would threaten all forest values (wildlife, water quality and recreation opportunities). Management will also protect communities within and surrounding the affected areas.

BE IT FURTHER RESOLVED that we strongly support management activities to reduce the risk of further spreading of insects and disease on other national forest lands and/or private lands adjacent to federal lands, and to protect human lives and property.

BE IT FURTHER RESOLVED that we encourage the United States Forest Service to first focus management activities on federal lands within one-half mile of private lands to decrease the bug impact and the risk of wildfire on privately owned timberland; on areas that already have roads; and then to use revenue generated from harvest activities to fund ecosystem restoration and reforestation activities to benefit fish and wildlife and improve water quality where appropriate.

BE IT FURTHER RESOLVED that we encourage the United States Forest Service to strongly consider current market conditions and the economic viability of timber sales when choosing harvest methods; encourage innovative and efficient logging techniques that ensure adequate protection for fish, wildlife, and water quality; and capture as much economic value of the dead and dying timber as possible without compromising water quality or wildlife habitat.

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 Dr. Michael P. Dombek, Chief of the United States Forest Service, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 17, 1999

Adopted by the House March 11, 1999

(S.J.M. No. 102)

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 First Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the federal administration under President Clinton is continually usurping the powers reserved for the Congress of the United States; and

WHEREAS, the Clinton administration is, by administrative decree,

making law and thereby bypassing both the advise and consent of the Congress; and

WHEREAS, these administrative laws are being thrust upon the citizens of Idaho and such laws are vigorously enforced by administration bureaucrats.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we hereby urgently and earnestly appeal to the Congress of the United States to reclaim its constitutional authority and responsibility to be the law-making body of these United States of America.

BE IT FURTHER RESOLVED that we respectfully request the Congress to implement procedures similar to the procedure employed by the state of Idaho which requires all rules proposed by executive agencies to be submitted to the Legislature of the State of Idaho for final approval before such administrative law may become effective.

BE IF FURTHER RESOLVED that we urge the Congress to limit the scope of executive orders by subjecting such orders to congressional approval before they may become effective.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and to the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 3, 1999

Adopted by the House March 16, 1999

(S.J.M. No. 103)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, 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 First Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, an economic emergency has been created by ongoing depressed prices in the marketplace for agricultural products and we believe a contributing factor to the depressed prices is the North American Free Trade Agreement as administered; and

WHEREAS, an investigation into the causes of the depressed prices is warranted and actions should be initiated to stabilize the nation's food producers, main street businesses and rural America; and

WHEREAS, the North American Free Trade Agreement as negotiated does not meet the test of a free, fair trade agreement particularly with the lack of enforcement of some of the provisions of the Agreement by some of our country's trading partners; and

WHEREAS, the North American Free Trade Agreement has adversely affected Idaho's agriculture by allowing Mexico to flood U.S. markets with cheap sugar, unfairly competing with Idaho's sugar beet industry and by allowing Mexican commodities produced with pesticides banned in the United States to compete with Idaho's agricultural producers whose pesticide use is regulated; and

WHEREAS, the United States Congress needs to take actions that will stabilize the nation's food producers, main street businesses and rural America as a whole including looking at emergency price supports and a safety net system for all agricultural products to be lifted only when international and domestic markets are reformed in a way that renders them open, public and competitive; and

WHEREAS, Congress and the Administration need to explore avenues for expansion and development of new international markets for agricultural products and ensure that agricultural producers have advisory status at any agricultural trade negotiations with a priority on price transparency of the Canadian Wheat Board.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that Congress and the President are urged to provide that the provisions of the North American Free Trade Agreement be enforced or that the Agreement be nullified and the United States withdrawn from the provisions of and participating in the Agreement.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the state of Idaho in the Congress of the United States.

Adopted by the Senate March 9, 1999

Adopted by the House March 19, 1999

(S.J.M. No. 104)

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 First Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the American consumer purchases everything from automobiles to clothing that is labeled as to where it is manufactured; and

WHEREAS, meat is not currently labeled as to the country of origin; and

WHEREAS, H.R. 222 has been introduced in Congress and would provide for country of origin labeling on meat and meat products and

would provide that whichever country the livestock is born and raised in, its origin would be clearly labeled on all meat; and

WHEREAS, the concept of country of origin labeling has enjoyed good initial support as a recent Wirthlin Worldwide survey of 1,000 consumers found that seventy-eight percent endorse the labeling of meat and meat products; and

WHEREAS, one out of five pieces of meat Americans consume does not come from American cattle, sheep or hogs; and

WHEREAS, American meat producers provide quality, safe and wholesome products; and

WHEREAS, during the numerous E. coli scares, tainted hamburger was tracked to various U.S. meatpacking plants, but because foreign meat was blended indiscriminately with domestic products, there was no way to determine where the tainted product came from; and

WHEREAS, the safety of our nation's meat supply is something that we, as Americans, must never take for granted and all consumers should be entitled to know the country of origin of the meat that they purchase; and

WHEREAS, Japan and the European Union have labeling requirements and Mexico is moving to tighten regulations governing the import of beef; and

WHEREAS, H.R. 222, also known as the Imported Meat Labeling Act of 1999, would provide consumers the right-to-know and would ensure that high quality American meat is properly labeled and receives the recognition it deserves in grocery stores nationwide and would provide consumers with peace of mind.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we support the passage of the Imported Meat Labeling Act of 1999 by the First Session of the 106th Congress.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 9, 1999

Adopted by the House March 19, 1999

HOUSE JOINT MEMORIALS

(H.J.M. No. 1)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Idaho is the only state in the nation without either a national veterans cemetery or a state veterans cemetery; and

WHEREAS, the majority of the states without a national cemetery are located in the Northwest; and

WHEREAS, only one of the six states bordering Idaho has a national cemetery; and

WHEREAS, Idaho is centrally located for a regional cemetery in the Northwest; and

WHEREAS, it is fitting and proper that a grateful nation should provide a burial site within a reasonable distance from the homes of those Idahoans and others residing in the northwestern states who honorably served their country in a time of emergency.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully and urgently request members of Idaho's congressional delegation to support funding for a national veterans cemetery in Idaho to serve veterans in the northwestern states.

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 5, 1999

Adopted by the Senate February 12, 1999

(H.J.M. No. 2)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Federal Land and Water Conservation Fund was created in 1965 to provide matching funds to encourage and assist local and state government in urban and rural areas to develop parks and to ensure accessibility to local outdoor recreation resources; and

WHEREAS, the state of Idaho has invested more than \$32 million in Federal Land and Water Conservation funds, which were matched by local and state funds, donated labor and materials, and community force accounts, to produce eighty percent of Idaho's local recreation facilities and nearly all of our state parks; and

WHEREAS, the Federal Land and Water Conservation Fund was the primary source of funding for Idaho's greenbelts, exercise trails, neighborhood parks, swimming facilities, state parks, multipurpose sports fields, boating facilities, golf courses, camping areas, equestrian arenas, fishing accesses, zoo facilities, amphitheaters and scenic areas; and

WHEREAS, since 1980, Idaho's allocation of Federal Land and Water Conservation Funds for grants has diminished from \$1.9 million to its total elimination in 1995; and

WHEREAS, the elimination of Federal Land and Water Conservation Fund allocations has adversely affected Idaho's outdoor recreation infrastructure, greatly reduced the ability of Idaho's cities and counties to meet the needs of our rapidly increasing populations, and created a backlog of upgrades, renovations and repairs to outdoor recreation facilities exceeding \$270 million; and

WHEREAS, outdoor recreation provides important economic, social, personal and resources benefits to the citizens of Idaho; and

WHEREAS, it has been determined that four out of every five Americans utilize local and state government recreation and park services; and

WHEREAS, outdoor recreation reduces crime by providing positive alternatives and experiences for Idaho's citizens; and

WHEREAS, the United States Congress is currently considering various bills and amendments concerning stateside funding for the Federal Land and Water Conservation Fund generated from Outer Continental Shelf oil royalties.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Congress of the United States is urged to pass legislation reallocating funding to the states from the Federal Land and Water Conservation Fund.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Repre-

sentatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States and the Honorable Dirk Kempthorne, Governor of the State of Idaho.

Adopted by the House March 2, 1999

Adopted by the Senate March 11, 1999

(H.J.M. No. 3)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the estate and gift tax is the federal government's least significant revenue source contributing approximately 1.1% of total federal revenue and in 1998 just 1.66% of adult deaths in the United States are expected to result in taxable estates; and

WHEREAS, a rationale for the estate and gift tax is that only the very wealthy pay it, but in 1995, 54% of all estate tax revenue came from estates under five million dollars and estate taxes that year fell for those with estates over twenty million dollars; and

WHEREAS, the reason for the preceding is that careful estate planning can virtually eliminate the tax, however many estate planning techniques are costly and require long lead-times to implement, making the burden of the estate tax often falling on those with recently acquired modest wealth such as farmers and small businesses; and

WHEREAS, the tax can be devastating on small businesses and agricultural operations and protecting these ventures from estate taxes can be costly and drain resources that could be better used by the owners to upgrade and expand their operations; and

WHEREAS, the estate and gift tax may be having unintended environmental consequences as America's nonindustrial private forest owners (who own 58% of America's forest land) face the untimely timber harvest and disruption of established forest management programs because of the federal estate tax and this is counterproductive to society's goals of sustainable forestry and environmental quality and the tax may also have the unintended consequence of forcing a decedent's estate to subdivide or sell all or portions of the family land, that otherwise might be managed in a sustainable manner, in order to meet the estate tax obligation; and

WHEREAS, Canada, Australia and Israel have repealed their estate taxes with three policy reasons given that more people were becoming subject to the tax, the relative tiny portion of revenue raised and

arguments by economists that the tax is counterproductive; and

WHEREAS, the inheritance tax is applied to property and goods that have already been taxed and some economists have indicated that the gross domestic product over the next seven years would be \$80 billion higher if the estate and gift tax were repealed.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully request that members of Congress take a serious look at repealing the estate and gift tax or, at the very least, to increasing the exemption substantially.

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 26, 1999

Adopted by the Senate March 12, 1999

(H.J.M. No. 5)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-fifth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, under the provisions of the Forest Service law of May 23, 1908, 35 Stat. 259, 260, 267 and as subsequently amended by the National Forest Management Act and the Federal Land Policy Management Act, the United States Forest Service pays to counties through the State Treasurer twenty-five percent of gross revenues from timber sales, grazing permits and leases, recreation fees, power line rights-of-way, special use permits and other programs; and

WHEREAS, the payments are made to states from each national forest, then are apportioned to counties according to the proportion of acreage of each national forest in each county; and

WHEREAS, the law mandates that these funds be used for public roads and public schools; and

WHEREAS, counties with large amounts of federal lands have few sources of revenue and rely on these payments to maintain their public roads and their public schools; and

WHEREAS, the Forest Service payments have become unpredictable due to forest planning processes over the past ten years that have reduced timber harvests on national forests; and

WHEREAS, demands on counties to provide necessary services such as good public roads, public schools, sanitation services, and search and rescue have increased; and

WHEREAS, stabilizing payments required by the 1908 Forest Service law is essential for responsible fiscal planning by the counties.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we strongly support stabilization of payments of the United States Forest Service to county governments through the State Treasurer and urge our congressional delegation representing the state of Idaho in the Congress of the United States to support legislation that will stabilize payments made by the United States Forest Service to the counties of the state of Idaho by increasing the annual timber harvest from federal lands within the state of Idaho to the allowable sales quantity levels outlined in the current forest plans and by increasing to fifty percent the amount of federal funds returned to the counties from the sale of federal timber under the provisions of the Forest Service law of May 23, 1908, 35 Stat. 259, 260, 267 and as subsequently amended by the National Forest Management Act and the Federal Land Policy Management Act.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the 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 12, 1999

Adopted by the Senate March 16, 1999

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 105)

A CONCURRENT RESOLUTION

RECOGNIZING ACCOMPLISHMENTS AND NEEDS FOR ADULT LITERACY PROGRAMS AND
DECLARING NOVEMBER 1999 TO BE IDAHO LITERACY MONTH WITH THE THEME
"LITERACY: INVESTING IN IDAHO'S WORKERS, CITIZENS AND FAMILIES."

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, math, critical thinking and speaking in English; 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 helps bring about 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; 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 1995 Synthetic Estimates of the National Adult Literacy Survey indicate that as many as 31 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 with services delivered through six postsecondary institutions, the Idaho Migrant Council, and the Department of Correction, assisted by numerous partnerships with a variety of institutions, agencies, private industries, and community-based nonprofit organizations; 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 First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that November 1999 be declared "Idaho Literacy Month" for the purpose of focusing public awareness on empowering Idahoans through increased literacy skills with the theme "Literacy: Investing in Idaho's Workers, Citizens and Families."

Adopted by the Senate January 27, 1999

Adopted by the House February 11, 1999

(S.C.R. No. 108)

A CONCURRENT RESOLUTION

RECOGNIZING ACCOMPLISHMENTS AND NEEDS FOR YOUNG ADULT AND ADULT FINANCIAL LITERACY PROGRAMS AND DECLARING MARCH 1999 TO BE IDAHO FINANCIAL LITERACY MONTH.

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

WHEREAS, consumer debt obligations have been growing twice as fast as wages and salary gains, and consumer debt in Idaho is approximately \$5.4 billion owed to Idaho institutions alone and is growing on an average of \$340 million per year; and

WHEREAS, Idaho's bankruptcy filings, both business and personal, have increased 129 percent over the past five years and, on a nationwide basis, the proportion of bankruptcy filers aged 25 years and younger is growing; and

WHEREAS, recent research has proven a direct relationship between financial literacy and rates of personal bankruptcy with Idaho being one of six states with the highest proportion of households filing for personal bankruptcy; and

WHEREAS, Idaho high school students have results on tests used to measure financial literacy among the lowest in the nation; and

WHEREAS, teenagers account for 25 percent of all credit cards held and spent approximately \$10.9 billion last year; and

WHEREAS, workers understand the need to save for retirement, but more than four out of five Americans surveyed are not systematically saving sufficient funds to provide for retirement; and

WHEREAS, educational efforts will help Idahoans learn how to protect themselves from unfair and fraudulent transactions and understand sound credit practices; and

WHEREAS, increased financial knowledge will contribute to personal financial stability and, consequently, contribute to the financial and

economic success of Idaho; and

WHEREAS, the Idaho Financial Literacy Coalition, the first organized coalition of its kind in the nation, whose members represent the public and private areas of finance, general business, education, securities, consumer science, banking and consumer education, will be nationally recognized by the Jump\$tart Coalition, an association of national, financial industry associations, Federal Reserve Banks and other federal agencies, nonprofit consumer organizations and various education foundations.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that March 1999 be declared "Idaho Financial Literacy Month" for the purposes of focusing public awareness on issues of youth and adult financial literacy and the responsibilities and rights of consumers.

Adopted by the Senate February 5, 1999

Adopted by the House February 26, 1999

(S.C.R. No. 110)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND REQUESTING THE DEPARTMENT OF HEALTH
AND WELFARE TO FIELD TEST A PROGRAM FOR THE ELDERLY AND PHYSICALLY
DISABLED.

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

WHEREAS, the Governor's Medicaid Reform Advisory Council, created by Executive Order No. 96-08, found that persons needing long-term care including the elderly and physically disabled, requested more options to meet their needs, increased flexibility in services received, and to be able to stay in their own homes as long as possible;

WHEREAS, one of the Governor's Medicaid Reform Initiatives directs the Department of Health and Welfare to make necessary changes in law and rule to create a system of long-term care for elderly and disabled adults that allows for the provision of client or family-directed services and for the provision of services in the most cost-effective, least restrictive setting possible;

WHEREAS, Idaho's population of persons age 85 or older averaged an annual 5.6 percent increase from 1990 to 1996;

WHEREAS, Idaho medicaid costs for nursing home care averaged an annual ten percent increase from 1992 to 1996;

WHEREAS, the American Association of Retired Persons (AARP) found that services provided in homes and communities cost less than institutional care;

WHEREAS, the Department of Health and Welfare was charged by the Governor to coordinate with the Idaho Commission on Aging to develop a Home and Community-Based Services waiver (HCBS) for Idaho citizens who are elderly or physically disabled;

WHEREAS, the proposed HCBS waiver offers eligible individuals who are elderly or physically disabled the choice of a comprehensive system of in-home services and promotes self-sufficiency, independence, dignity, choice and privacy.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Department of Health and Welfare shall field test the HCBS waiver for the elderly and physically disabled in the selected geographic service area and phase-in implementation in other geographic service areas of the state following the field test.

BE IT FURTHER RESOLVED that the Department of Health and Welfare shall adopt temporary rules as may be needed to carry out this resolution, and review and propose any necessary amendments to state law and rule for an effective use of resources and the provision of home and community-based services.

Adopted by the Senate February 9, 1999

Adopted by the House February 23, 1999

(S.C.R. No. 111)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE, ADOPTING CERTAIN RECOMMENDATIONS, AND STATING SUPPORT FOR THE DEVELOPMENT OF AN IDAHO SPACEPORT.

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

WHEREAS, the growth of global space commercialization and strong demand for launching satellites presents an opportunity for the development of a commercial spaceport in Idaho which would strengthen the state's economic vitality through increased business activity; 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 enhance world recognition and prestige for its residents and its institutions by being a significant participant in leading-edge aerospace development; and

WHEREAS, it is important that Idaho coordinate activities relating to space commercialization and spaceport development with entities and individuals both inside and outside Idaho; and

WHEREAS, a spaceport broadens opportunities to define new scientific missions at the INEEL relating to aerospace, telecommunications and remote sensing; and

WHEREAS, a spaceport would support Idaho's emphasis on education, science and technology and the economy; and

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that:

1. The First Regular Session of the Fifty-fifth Idaho Legislature supports the development of an Idaho Spaceport.

2. The Idaho Office of Spaceport Development and the Idaho Department of Commerce and other state agencies shall assist with the development of an Idaho Spaceport located on the INEEL.
3. Idaho shall work cooperatively with the Department of Energy, Federal Aviation Administration and other federal agencies and their contractors to assist in the development of the Idaho Spaceport.
4. The State Board of Education, to the extent possible, will direct the development of programs to support the educational needs of an Idaho Spaceport.
5. Idaho shall encourage appropriate private ventures interested in launching space vehicles from Idaho and others interested in furthering space flight from Idaho to assist in the development of an Idaho Spaceport.

Adopted by the Senate February 11, 1999

Adopted by the House February 26, 1999

(S.C.R. No. 112)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE IDAHO TRANSPORTATION DEPARTMENT RELATING TO REPEALING RULES IN THE IDAHO ADMINISTRATIVE CODE DEALING WITH HIGHWAY MATTERS AND REPLACING THOSE RULES WITH A PERMIT CONDITIONS MANUAL THAT WOULD BE INCORPORATED BY REFERENCE INTO THE IDAHO ADMINISTRATIVE CODE.

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 Idaho Transportation Department relating to repealing rules in the Idaho Administrative Code dealing with highway matters and replacing those rules with a permit conditions manual that would be incorporated by reference into the Idaho Administrative Code are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 39.03.01, rules of the Idaho Transportation Department relating to repealing rules in the Idaho Administrative Code dealing with highway matters and replacing those rules with a permit conditions manual that would be incorporated by reference into the Idaho Administrative Code, adopted as a pending rule under Docket Number 39-0301-9802, and the repeal of certain portions of the Idaho Administrative Code dealing with highway matters, adopted as pending rules under Docket Number 39-0301-9801 and Docket

Number 39-0305-9801 through and including Docket Number 39-0325-9801, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 12, 1999

Adopted by the House February 23, 1999

(S.C.R. No. 114)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF IDAHO LAWS REGARDING TEACHER AND ADMINISTRATOR CONTRACT AND EVALUATION PROCESSES AND PREPARE LEGISLATION FOR MODIFICATIONS AND IMPROVEMENTS IN THE EXISTING SYSTEM.

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

WHEREAS, several legislative proposals have been considered in recent legislative sessions to address continuing areas of conflict relating to contracts and evaluations between teachers and administrators in the public school system; and

WHEREAS, it is important to Idaho citizens, particularly to the students enrolled in the public education system, that the system operate smoothly and efficiently; and

WHEREAS, it is in the best interests of all parties concerned that the legislative framework established in the state law be a framework which facilitates cooperation and the most positive outcome; and

WHEREAS, legislators need to give concentrated attention to appropriate revisions to the existing law and make recommendations to the Legislature.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of Idaho laws regarding teacher and administrator contract and evaluation processes and prepare legislation for modifications and improvements in the existing system. 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 cochair 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 Second Regular Session of the Fifty-fifth Idaho Legislature.

Adopted by the Senate February 23, 1999

Adopted by the House March 18, 1999

(S.C.R. No. 115)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF AGRICULTURE RELATING TO PROFESSIONAL APPLICATORS AND TO LIVESTOCK PROTECTION COLLARS AND SPECIFICALLY ADDRESSING TRAINING ON ALTERNATIVE CONTROLS OF PREDATION, AUTHORITY TO FILL LIVESTOCK PROTECTION COLLARS WITH COMPOUND 1080, WHERE LIVESTOCK PROTECTION COLLARS MAY BE USED, USE OF LIVESTOCK PROTECTION COLLARS AS A LAST RESORT, INFORMATION ON WARNING SIGNS, INSPECTION OF LIVESTOCK PROTECTION COLLARS AND REPORTS, SEARCH FOR COLLARED ANIMALS THAT ARE UNACCOUNTED FOR, ACTIONS IF MORE THAN THREE LIVESTOCK PROTECTION COLLARS ARE UNACCOUNTED FOR DURING A FOURTEEN DAY PERIOD, DISPOSAL OF PUNCTURED OR UNSERVICEABLE LIVESTOCK PROTECTION COLLARS AND ANIMAL REMAINS, STORAGE OF LIVESTOCK PROTECTION COLLARS, RECORDS OF COLLARS DISTRIBUTED AND INFORMATION REGARDING PROFESSIONAL APPLICATORS TO BE SUBMITTED TO ISDA AND US EPA, AND RECORDS OF POISONINGS BY LIVESTOCK PROTECTION COLLARS AND OTHER INFORMATION TO BE FILED WITH THE ISDA.

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

WHEREAS, the Legislature is vested with the 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 subsections of certain rules of the Department of Agriculture relating to livestock protection collars are not consistent with legislative intent and therefore should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the subsections of IDAPA 02.03.03 relating to livestock protection collars, adopted as pending rules under Docket Number 02-0303-9802 and enumerated in this resolution, are rejected and declared null, void and of no force and effect:

- (1) Subsection 100.01.b.x.(2), which provides:
"(2) Training on alternative controls of predation."

- (2) Subsection 101.01.d., which provides:
"d. Only the manufacturer is authorized to fill collars with Compound 1080. Certified professional applicators or any other person shall not fill collars or remove the pesticide from the collars."
- (3) Subsection 101.02.b., which provides:
"b. Collars shall be used only upon sheep within fenced pastures no larger than two thousand five hundred sixty (2,560) acres (four (4) square miles). Fenced pastures include all pastures that are enclosed by livestock fencing. In addition to wire livestock fences, and other man-made fences, such as rock walls, natural barriers such as escarpments, lakes, or large rivers may be used as fences, as long as they will prevent escape of sheep. Fenced pastures and fences as herein defined shall be referred to elsewhere in this section as "area". Collars shall not be used on unfenced, open range."
- (4) Subsection 101.02.d., which provides:
"d. LPCs shall be used only as a "last resort" measure."
- (5) Subsection 101.02.e.v., which provides:
"v. The name of the pesticide (Compound 1080) and the date of use shall appear on the warning sign."
- (6) Subsection 101.02.f., which provides:
"f. Each collar in use shall be inspected by the professional applicator once a week to ensure that it is properly positioned and unbroken. An inspection report on a form prescribed by the director shall be forwarded to ISDA following any inspection."
- (7) Subsection 101.02.f.i., which provides:
"i. If any collared animal is not accounted for in any one (1) check, a complete and intensive search for the collared animal shall be conducted."
- (8) Subsection 101.02.f.ii., which provides:
"ii. If more than three (3) LPCs are unaccounted for during any fourteen (14) day period, WS employees shall remove all LPCs from all animals and terminate their use. Use of collars shall not be resumed until WS employees have provided ISDA with a written protocol defining adequate steps they shall take to prevent any losses of LPCs."
- (9) Subsection 101.02.g.i., which provides:
"i. Disposal of punctured or unserviceable collars and contaminated gloves, clothing, vegetation, or soil shall be through the ISDA pesticide disposal program. Disposal of animal remains shall be in accordance with label directions."

- (10) Subsection 101.02.h., which provides:
"h. Intact LPCs containing Compound 1080 shall be stored by USDA, APHIS, WS under lock and key in a dry place away from food, feed, domestic animals, and corrosive chemicals. Intact collars shall not be stored in any structure occupied by humans."
- (11) Subsection 101.02.j.v., which provides:
"v. A report of this information shall be submitted to the ISDA and the US EPA upon each collar distribution."
- (12) Subsection 101.02.k.ix., which provides:
"ix. A report of this information shall be submitted to the ISDA as specified in these rules."

Adopted by the Senate February 17, 1999

Adopted by the House March 10, 1999

(S.C.R. No. 117)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO ESTABLISH A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF THE FUTURE USE OF THE IDAHO STATE SCHOOL AND HOSPITAL, THE DEVELOPMENT OF QUALITY COMMUNITY CARE ALTERNATIVES AND THE ELIMINATION OF THE WAITING LIST FOR WAIVER SERVICES.

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

WHEREAS, the Idaho Department of Health and Welfare is empowered and directed, pursuant to Section 39-4601, et al., Idaho Code, to develop and coordinate services for Idahoans with a developmental disability, and pursuant to Section 66-401, et al., Idaho Code, to establish a system for diagnosis, care, and treatment in a manner consistent with legal rights and least restrictive settings; and

WHEREAS, the state has made progress in designing and establishing in-home services for people with developmental disabilities as an alternative to institutionalization; and

WHEREAS, the state should further expand individualized services so in-home living arrangements become the preferred policy of the state and offered as the first choice as a living arrangement for Idahoans with a developmental disability, and institutional care becomes the alternative to home-based care; and

WHEREAS, the development of in-home individualized services must meet both quality and safety criteria; and

WHEREAS, growth in the Medicaid budget requires all opportunities for savings to be explored including strategies to become even less dependent upon this expensive institutional service model; and

WHEREAS, the Idaho State School and Hospital budget was \$18.4 million in fiscal year 1999, employing 407 persons to serve 110 individuals, while community services cost considerably less; and

WHEREAS, the physical facilities of the Idaho State School and Hospital are old and generally regarded as inefficient, difficult to maintain, and in poor physical condition; and

WHEREAS, the current population at the Idaho State School and Hospital has changed and now reflects a mix of disabilities including individuals with violent behaviors sentenced by the courts to the institution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee that is charged to research the future use of the Idaho State School and Hospital, the role of the state in developing strategies and resources to expand in-home community-based services, and determine options to eliminate the waiting list for those services. This information will be detailed in a report that must include, but not be limited to: thorough assessment of the resources and facilities at the Idaho State School and Hospital; strategies to enhance the in-home and community-based service system and efforts to support current residents in community settings; methods to maximize the efficient use of Medicaid and other funds; steps to address the elimination of the growing waiting list for waiver services; steps to guarantee that the civil and human rights of residents of the institution and community services are fully protected; options to stimulate the development of additional in-home service providers; methods to ensure that quality assurance mechanisms are part of the community care model; approaches to provided training or retraining for potential relocation of current institutional personnel; strategies to involve current residents and their families to address their concerns and assist in smooth transitions to alternative settings if found desirable; and establish a timeline for accomplishment of all of the above not to extend beyond the year 2005.

BE IT FURTHER RESOLVED, that, in addition to legislative members of the committee, the committee will consist of representatives from the following general organizations: two individuals from the Idaho State School and Hospital; one member from the Division of Family and Community Services; one member from the Division of Medicaid; one representative from the Governor's Office, Division of Financial Management; one representative from the Idaho Council on Developmental Disabilities; one representative from the Idaho Protection and Advocacy Agency; one representative of the State Independent Living Council; one representative of the Department of Correction; one District Judge; one representative from community-based Intermediate Care Facilities for the Mentally Retarded (ICFs/MR); two members from agencies or organizations that provide in-home services for people with developmental disabilities; two parents or legal guardians of residents living at the Idaho State School and Hospital; and up to two residents or former residents of the Idaho State School and Hospital.

BE IT FURTHER RESOLVED, that nonlegislative advisors of the 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.

AND BE IT FURTHER RESOLVED, that the committee meet monthly beginning in May, 1999, and make its final report, plan, recommendations and time frames to the Second Regular Session of the Fifty-fifth Idaho Legislature.

Adopted by the Senate March 9, 1999

Adopted by the House March 19, 1999

(S.C.R. No. 123)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE CONSTRUCTION OF A FACILITY ON THE CAMPUS OF IDAHO STATE UNIVERSITY TO BE KNOWN AS THE "L. E. & THELMA E. STEPHENS PERFORMING ARTS CENTER."

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

WHEREAS, there is a strong demand for a performing arts center at Idaho State University; and

WHEREAS, the State Board of Education has approved the construction of a performing arts center to be located on the campus of Idaho State University in Pocatello; and

WHEREAS, construction costs will be from contributions to the Idaho State University Foundation, including funds from the University's Centennial Capital Campaign; and

WHEREAS, in recognition of the substantial gifts and pledges of more than ten million dollars in support of this project by L. E. and Thelma Stephens, the State Board of Education has approved naming the performing arts center the "L.E. & Thelma E. Stephens Performing Arts Center."

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that pursuant to Section 33-3805A, Idaho Code, approval is hereby granted to the State Board of Education, acting as trustees for Idaho State University, to construct a facility on the campus of Idaho State University to be known as the "L.E. & Thelma E. Stephens Performing Arts Center."

Adopted by the Senate February 19, 1999

Adopted by the House March 10, 1999

(S.C.R. No. 124)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND REJECTING THE REPEAL OF CERTAIN RULES OF THE INDUSTRIAL COMMISSION RELATING TO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING.

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 Industrial Commission repealing rules relating to minimum safety standards and practices for logging are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the pending repeal by the Industrial Commission of IDAPA 17.08.01 through and including IDAPA 17.08.16, rules of the Industrial Commission relating to minimum safety standards and practices for logging, adopted as pending rules under Docket numbers 17-0801-9801 through and including Docket number 17-0816-9801 be, and the same is hereby rejected and declared null, void and of no force and effect, and that the repeal of the above rules hereby having been rejected, that the above rules relating to minimum safety standards and practices for logging shall remain in full force and effect as they are published and as they now appear in the Idaho Administrative Code.

BE IT FURTHER RESOLVED that it is legislative intent that the above rules relating to minimum safety standards and practices for logging remain in full force and effect.

Adopted by the Senate February 22, 1999

Adopted by the House March 4, 1999

(S.C.R. No. 125)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS, COMMENDING CORRECTIONAL INDUSTRIES AND PROVIDING LEGISLATIVE DIRECTION TO CORRECTIONAL INDUSTRIES.

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

WHEREAS, Correctional Industries is a division of the Idaho Department of Correction and is charged with providing incarcerated inmates with job training and work experience by employing them in a realistic work environment that teaches work ethics and skills that will increase their chance for successful transition as a productive member of society; and

WHEREAS, even though Correctional Industries currently manufactures, produces or provides new or restored office furniture, license plates, dairy and meat products used by prisons, signs, printing and bindery services, engraving plaques, data entry and microfilming for state and local government entities at competitive prices, it is only employing around twelve percent of the qualified prison population and needs opportunities from qualified customers to expand employment to inmates; and

WHEREAS, work experiences reduce inmate idleness thereby reducing

tension and providing a positive outlet for their energies making it safer for inmates and correction personnel; and

WHEREAS, Correctional Industries seeks to be self-sustaining, saves tax dollars and provides emotional benefit to inmates by providing them with gainful employment and takes deductions from inmate wages for victim restitution and room and board while allowing limited amounts for personal use and savings, thereby providing financial benefits to the state while teaching inmates accountability and responsibility; and

WHEREAS, inmates should produce all of their own food, clothing and other goods and services they use to the maximum extent practicable.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we recognize and commend Correctional Industries for its efforts and accomplishments.

BE IT FURTHER RESOLVED that we request Correctional Industries be innovative in expanding public and private-public work opportunities that place the interests of taxpayers first in each new work experience while at the same time being price competitive and sensitive to the effect its enterprises have on established private business in Idaho.

Adopted by the Senate February 26, 1999

Adopted by the House March 17, 1999

(S.C.R. No. 127)

A CONCURRENT RESOLUTION

COMMENDING THE STATE OF UTAH AND THE SALT LAKE OLYMPIC COMMITTEE FOR BRINGING THE 2002 WINTER OLYMPIC GAMES TO THE INTERMOUNTAIN WEST AND PLEDGING IDAHO'S ASSISTANCE IN PUTTING ON THE BEST WINTER OLYMPICS IN HISTORY.

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

WHEREAS, the state of Utah and the Salt Lake Olympic Committee (SLOC) will be hosting the 2002 Winter Olympic Games; and

WHEREAS, the economic, social and cultural benefits of the 2002 Winter Olympic Games will extend to the Intermountain West; and

WHEREAS, the 2002 Winter Olympic Games present an opportunity to participate in assisting the host state, while strengthening the economic vitality of Idaho through increased development activity and visitation; and

WHEREAS, the Governor of the State of Idaho, by virtue of Executive Order authorized the establishment of an Idaho 2002 Committee; and

WHEREAS, this committee is to serve as the official liaison for the state of Idaho with the International Olympic Committee, the Salt Lake Olympic Committee, the United States Olympic Committee, and other national Olympic committees, and sports federations; and

WHEREAS, the state of Idaho recognizes Utah Governor Mike Leavitt's leadership and commitment to turning the Olympic movement from its course of money and materialism to its root of altruism and athleticism, and has called on the International Olympic Committee to act boldly and decisively to restore trust to the Olympic movement; and

WHEREAS, the appointment of W. Mitt Romney as the new President and Chief Executive Officer of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 will bring renewed vision and energy to the SLOC effort.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we support the state of Utah and the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 in putting on the best Winter Olympics in history.

Adopted by the Senate March 1, 1999

Adopted by the House March 19, 1999

(S.C.R. No. 128)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING AND HONORING THE MIGHTY EIGHTH AIR FORCE HERITAGE MUSEUM AND ITS CONTRIBUTIONS TO THE PEOPLE OF THIS NATION AND DIRECTING THE SECRETARY OF THE SENATE TO DELIVER A COPY OF THIS RESOLUTION.

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

WHEREAS, the Eighth Air Force has admirably served the United States since its inception fifty-six years ago and has become the largest air force in history; and

WHEREAS, the Mighty Eighth played such a vital role in the defeat of Nazi Germany in World War II, and has since continued to be a factor in the Korean War, the Vietnam War and the Persian Gulf War; and

WHEREAS, today, the Eighth Air Force, headquartered at Barksdale AFB, Louisiana, continues its distinguished service as a unit of the Air Combat Command at Langley Air Force Base, Virginia; and

WHEREAS, since 1942, over one million Americans, many of them from the state of Idaho, have served their country in the Eighth Air Force; and

WHEREAS, some units of the Eighth Air Force were activated in Idaho at Gowen Field including the 445th Bombardment Group consisting of the 700th, 701st, 702nd and 703rd Bombardment Squadrons; and

WHEREAS, in honor of the men and women who served in the Eighth Air Force, the Mighty Eighth Air Force Heritage Museum is a memorial and monument to those men and women who did not return from war and to the survivors who continue to make contributions to this country; and

WHEREAS, the Mighty Eighth Air Force Heritage Museum is recognized as a national treasure that is essential in educating our young people.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we recognize and honor the Mighty Eighth Air Force Heritage Museum and its contributions to the people of this nation.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby directed to forward a copy of this resolution to the Mighty Eighth Air Force Heritage Museum.

Adopted by the Senate March 1, 1999

Adopted by the House March 11, 1999

(S.C.R. No. 129)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE, REPEALING, RESCINDING, CANCELING, VOIDING AND SUPERSEDING ANY AND ALL EXTANT APPLICATIONS BY THE LEGISLATURE OF THE STATE OF IDAHO HERETOFORE MADE DURING ANY SESSION THEREOF TO THE CONGRESS OF THE UNITED STATES OF AMERICA TO CALL A CONVENTION PURSUANT TO THE TERMS OF ARTICLE V OF THE UNITED STATES CONSTITUTION FOR PROPOSING ONE OR MORE AMENDMENTS TO THE CONSTITUTION AND URGING THE LEGISLATURES OF THE OTHER STATES TO DO THE SAME, REAFFIRMING THE REQUEST FOR AN AMENDMENT REQUIRING THAT FEDERAL OUTLAYS NOT EXCEED RECEIPTS, AND DIRECTING COPIES OF THIS RESOLUTION BE SENT TO SPECIFIED PERSONS.

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

WHEREAS, the Legislature of the State of Idaho, acting with the best of intentions, has, at various times, and during various sessions, previously made applications to the Congress of the United States of America to call one or more conventions to propose either a single amendment concerning a specific subject or to call a general convention to propose an unspecified and unlimited number of amendments to the United States Constitution, pursuant to the provisions of Article V thereof; and

WHEREAS, former Justice of the United States of America Warren E. Burger, former Associate Justice of the United States Supreme Court Arthur J. Goldberg and other leading constitutional scholars agree that such a convention may propose sweeping changes to the Constitution, any limitations or restrictions purportedly imposed by the states in applying for such a convention or conventions to the contrary notwithstanding, thereby creating an imminent peril to the well-established rights of the citizens and the duties of various levels of government; and

WHEREAS, the Constitution of the United States of America has been amended many times in the history of this nation and may be amended many more times, without the need to resort to a constitutional convention, and has been interpreted for more than two hundred years and has been found to be a sound document which protects the lives and liberties of the citizens; and

WHEREAS, there is no need for, rather, there is great danger in, a new Constitution or in opening the Constitution to sweeping changes, the adoption of which would only create legal chaos in this nation and only begin the process of another two centuries of litigation over its meaning and interpretation.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature does hereby repeal, rescind, cancel, nullify, and supersede to the same effect as if they had never been passed, any and all extant applications by the Legislature of the State of Idaho to the Congress of the United States of America to call a convention to propose amendments to the Constitution of the United States of America, pursuant to the terms of Article V thereof, regardless of when or by which session or sessions of the Idaho Legislature such applications were made and regardless of whether such applications were for a limited convention to propose one or more amendments regarding one or more specific subjects and purposes or for a general convention to propose an unlimited number of amendments upon an unlimited number of subjects.

BE IT FURTHER RESOLVED that the following resolutions and memorials, be, and the same are hereby specifically repealed, rescinded, canceled, nullified and superseded: S.J.M. 2, 1901 Session of the Legislature; S.J.R. 2, 1927 Session of the Legislature; H.C.R. 6, 1957 Session of the Legislature; S.J.M. 9, 1963 Session of the Legislature; H.J.M. 7, 1963 Session of the Legislature; S.J.M. 1, 1965 Session of the Legislature; H.C.R. 7, 1979 Session of the Legislature; and S.C.R. 132, 1980 Session of the Legislature.

BE IT FURTHER RESOLVED that the Legislature of the State of Idaho urges the Legislatures of each and every state which has applied to Congress to call a convention for either a general or a limited constitutional convention, to repeal and rescind such applications.

BE IT FURTHER RESOLVED that, notwithstanding any other provision of this Resolution, the Legislature hereby reaffirms its request to the Congress of the United States of America that the Congress of the United States propose an amendment to the Constitution of the United States of America requiring, in the absence of a national emergency, that the total of all federal outlays for any fiscal year shall not exceed the total of all federal receipts for that fiscal year, which amendment may also limit the power of Congress to increase federal taxes, and remit it 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 send copies of this Resolution to the Secretary of State of each state in the Union, to the presiding officers of both houses of the Legislatures of each state in the Union, to the President of the United States Senate, to the Speaker of the United States House of Representatives, to the members of the Congress of the United States representing the State and people of Idaho, and the administrator of General Services, Washington, D.C.

Adopted by the Senate March 1, 1999

Adopted by the House March 15, 1999

(S.C.R. No. 130)

A CONCURRENT RESOLUTION

AUTHORIZING THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AGREEMENTS WITH THE IDAHO STATE BUILDING AUTHORITY TO FINANCE AND ACQUIRE PROPERTY FOR A NEW STATE PARK IN BOX SPRINGS CANYON NEAR HAGERMAN, IDAHO.

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

WHEREAS, Governor Batt and the Earl Hardy Foundation executed a purchase and sales agreement on December 31, 1998, providing for acquisition by Idaho Department of Parks and Recreation of certain unique property located along the Snake River in an area known as Box Springs Canyon near Hagerman, Idaho;

WHEREAS, the Idaho Nature Conservancy has agreed to assist the state in the acquisition of such land; and

WHEREAS, such acquisition of the land for use as a new state park is in the public interest; and

WHEREAS, the Idaho State Building Authority is empowered to acquire, finance and provide facilities to the state of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature hereby authorizes and provides approval for the Department of Parks and Recreation to enter into an agreement or agreements with the Idaho State Building Authority, under such terms and conditions as may be reasonable and necessary, to provide financing for the acquisition of such property and to make such property available for use by the Department of Parks and Recreation.

BE IT FURTHER RESOLVED that this Resolution constitutes authorization required by the provisions of Section 67-6410, Idaho Code.

Adopted by the Senate March 3, 1999

Adopted by the House March 15, 1999

(S.C.R. No. 131)

A CONCURRENT RESOLUTION

AUTHORIZING THE DEPARTMENT OF PARKS AND RECREATION AND THE DEPARTMENT OF LANDS TO ENTER INTO AGREEMENTS WITH THE IDAHO STATE BUILDING AUTHORITY TO FINANCE AND ACQUIRE PROPERTY TO EXCHANGE FOR ENDOWMENT LANDS ADJOINING PONDEROSA PARK IN MCCALL, IDAHO.

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

WHEREAS, the Department of Parks and Recreation has demonstrated the need for expanded facilities at Ponderosa Park in McCall, Idaho, and the state of Idaho owns certain endowment lands and improvements adjoining Ponderosa Park suitable for expanded facilities at Ponderosa

Park to enhance public services; and

WHEREAS, the Board of Land Commissioners and the Department of Lands agree to exchange existing state endowment lands and improvements adjoining Ponderosa Park for other suitable property; and

WHEREAS, the Idaho State Building Authority is empowered to acquire, finance and provide facilities to the state of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature hereby authorizes and provides approval for the Department of Parks and Recreation and the Department of Lands to enter into an agreement or agreements with the Idaho State Building Authority, under such terms and conditions as may be reasonable and necessary, to provide financing, to the extent necessary after available state appropriated funds are applied, to acquire and exchange property for endowment lands and improvements adjoining Ponderosa Park, and to make such exchanged property available for use by the Department of Parks and Recreation.

BE IT FURTHER RESOLVED that this Resolution constitutes authorization required by the provisions of Section 67-6410, Idaho Code.

Adopted by the Senate March 3, 1999

Adopted by the House March 11, 1999

(S.C.R. No. 132)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND CHARGING THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE AND THE ADMINISTRATOR OF THE DIVISION OF ENVIRONMENTAL QUALITY TO REFRAIN FROM COMMITMENTS PURSUANT TO THE KYOTO PROTOCOL.

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

WHEREAS, it is appropriate that the Legislature express the intent of the state of Idaho concerning new regulatory programs intended to reduce greenhouse gas emissions pursuant to the terms of the Kyoto Protocol; and

WHEREAS, the Protocol has not yet received Senate ratification nor implementing legislation from the Congress of the United States; and

WHEREAS, we conclude that action by the state of Idaho at this time would be premature.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we charge the Director of the Department of Health and Welfare and the Administrator of the Division of Environmental Quality to refrain from proposing or promulgating any new rules intended, in whole or in part, to reduce emissions of greenhouse gases, as such gases are defined by the Kyoto Protocol, from the residential, commercial, industrial, utility or transportation sectors.

BE IT FURTHER RESOLVED that in the absence of legislative authori-

zation to do so, the Director of the Department of Health and Welfare and the Administrator of the Division of Environmental Quality shall not submit to the United States Environmental Protection Agency or to any other agency of the Federal Government any legally enforceable commitments related to the reduction of greenhouse gases, as such gases are defined by the Kyoto Protocol.

BE IT FURTHER RESOLVED that nothing in this resolution shall be construed to limit or to impede state or private participation in any ongoing voluntary initiatives to reduce emissions of greenhouse gases including, but not limited to, the United States Environmental Protection Agency's Green Lights program, the United States Department of Energy's Climate Challenge program, and similar state and federal initiatives relying on voluntary participation, provided however, that such participation does not involve any allocation or other distribution of greenhouse gas emission entitlements pursuant to or under color of the Kyoto Protocol.

Adopted by the Senate March 3, 1999

Adopted by the House March 16, 1999

(S.C.R. No. 134)

A CONCURRENT RESOLUTION

RECOGNIZING THE ACCOMPLISHMENTS OF A NATIVE SON OF THE STATE OF IDAHO, LEONARD JAMES ARRINGTON, AND JOINING WITH HIS MANY FRIENDS AND COLLEAGUES EXPRESSING OUR SYMPATHY TO HIS FAMILY AND OUR APPRECIATION FOR HIS MANY CONTRIBUTIONS.

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

WHEREAS, Leonard James Arrington, recognized as the Dean of Western Historians, died Thursday, February 11, 1999, at his home in Salt Lake City, Utah; and

WHEREAS, Dr. Arrington was born in Twin Falls, Idaho, on July 2, 1917, the third of Noah and Edna Arrington's eleven children; and

WHEREAS, he was a graduate of the University of Idaho in 1939, a Phi Beta Kappa majoring in agricultural economics; and

WHEREAS, following further education in economics and history, and service in World War II, Leonard Arrington began a classroom teaching career at Utah State University where he taught for twenty-six years and profoundly influenced the education of thousands of students; and

WHEREAS, Dr. Arrington was appointed to the position of Church Historian by the Church of Jesus Christ of Latter-day Saints and during his tenure he encouraged research opportunities in western and church history and began the first studies of Mormon Women's History; and

WHEREAS, as reported in the obituary in the "New York Times," Dr. Arrington was the author of twenty-one books on American, Western and Mormon history and published hundreds of articles in professional journals. Many of these works involved Idaho. As a Fulbright professor at the University of Genoa, Italy, he wrote "Introduzione Alla Storia

Economica Degli Stati Uniti," published in Genoa in 1959. For publisher Alfred Knopf Co., in 1985, he wrote the definitive biography of "Brigham Young: American Moses." Many historians believe his Ph.D. dissertation in economics, published by the Harvard University Press as "Great Basin Kingdom: An Economic History of the Latter-day Saints, 1830-1900," to be the single best history of the Great Basin region in the nineteenth century. Every week for twenty-eight years, until his death, he wrote a letter to his children; and

WHEREAS, in 1990, the Idaho Legislature commissioned Leonard James Arrington to compile a bicentennial history of his native state which he completed with distinction in his two-volume book, "History of Idaho" published by the Idaho State Historical Society and the University of Idaho Press; and

WHEREAS, Leonard James Arrington was respected as a fine historian with an inquiring mind, as a genuine individual with a unique ability to inspire others, and as a friend and colleague by many.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature recognizes the accomplishments of a native son of the state of Idaho, Leonard James Arrington, and join with his many friends and colleagues in expressing our sympathy to his family and our appreciation for his many contributions.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this resolution to the family of Leonard James Arrington, his wife Harriet Horne Arrington, and his children James, Carl and Susan.

Adopted by the Senate March 16, 1999

Adopted by the House March 19, 1999

(S.C.R. No. 135)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE, WITH EXCEPTIONS, AND REJECTING CERTAIN AGENCY RULES THAT ARE NOT APPROVED.

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

WHEREAS, the Legislature pursuant to Section 67-5224, Idaho Code, must approve certain administrative rules that impose a fee or charge by adoption of a concurrent resolution before the rules become effective; and

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 Idaho State Board of Medicine, relating to definitions, and of the Division of Building Safety, relating to administrative fees are

not consistent with legislative intent and should not be approved.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth 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 1999 legislative session, which impose a fee or charge, be, and the same are approved, with the exception of the following enumerated pending fee rules:

(1) IDAPA 22.01.010., Subsection 07., Rules of the Idaho State Board of Medicine relating to definitions, adopted as a pending fee rule under Docket Number 22-0101-9801.

(2) IDAPA 07.03.13., Section 013., Rules of the Division of Building Safety relating to administrative fees for mobile home rehabilitation checklists, adopted as a pending fee rule under Docket Number 07-0313-9803.

BE IT FURTHER RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 22.01.010., Subsection 07., Rules of the Idaho State Board of Medicine, relating to definitions, adopted as a pending fee rule under Docket Number 22-0101-9801, and IDAPA 07.03.13., Section 013., Rules of the Division of Building Safety relating to administrative fees for mobile home rehabilitation checklists, adopted as a pending fee rule under Docket Number 07-0313-9803 be, and the same are hereby rejected and not approved and thereby pursuant to Section 67-5291 and Section 67-5224, Idaho Code, are declared null, void and of no force and effect.

BE IT FURTHER RESOLVED that 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 and approved in this concurrent resolution shall be null, void and of no force and effect unless approved by adoption of a separate concurrent resolution by both houses of the Legislature as provided in Section 67-5224, Idaho Code.

Adopted by the Senate March 4, 1999

Adopted by the House March 17, 1999

(S.C.R. No. 136)

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 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 First Regular Session of the Fifty-fifth 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 for review during the 1999 legislative session, 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 approved, with the exception of the following enumerated temporary rule sections:

(1) IDAPA 12.01.10, the entire chapter, including all sections and subsections therein, rules of the Department of Finance relating to the Idaho Residential Mortgage Practices Act, adopted as a temporary rule and as an amended temporary rule under Docket Number 12-0110-9801.

(2) IDAPA 39.03.01, rules of the Idaho Transportation Department relating to repealing rules in the Idaho Administrative Code dealing with highway matters and replacing those rules with a permit conditions manual that would be incorporated by reference into the Idaho Administrative Code, adopted as a temporary rule under Docket Number 39-0301-9802, and the repeal of certain portions of the Idaho Administrative Code dealing with highway matters, adopted as temporary rules under Docket Number 39-0301-9801 and Docket Numbers 39-0305-9801 through and including Docket Number 39-0325-9801.

(3) IDAPA 31.42.01, Sections 401 through and including Section 411, rules of the Idaho Public Utilities Commission relating to interconnection and access standards for facilities-based telephone corporations that provide basic local service in new telecommunications development areas, adopted as a temporary rule under Docket Number 31-4201-9801.

(4) IDAPA 13.01.08, Section 421, Subsection 01 only, rules of the Idaho Fish and Game Commission relating to mandatory deer and elk report requirements, adopted as a temporary rule under Docket Number 13-0108-9802, and IDAPA 13.01.15, Idaho Fish and Game Commission relating to the use of dogs, adopted as a temporary rule under Docket Number 13-0115-9801.

(5) IDAPA 16.03.09, Section 003., Subsection 55.d. concerning computerized communication devices and Subsection 65 concerning speech/language pathology and audiology services, rules of the Department of Health and Welfare relating to medical assistance definitions, adopted as a temporary rule under Docket Number 16-0309-9809.

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 Second Regular Session of the Fifty-fifth Idaho Leg-

islature unless it is further extended 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 during the 1999 legislative session shall expire by operation of statute upon adjournment of the First Regular Session of the Fifty-fifth Idaho Legislature, unless approved by adoption of a separate concurrent resolution by both houses of the Legislature.

Adopted by the Senate March 4, 1999

Adopted by the House March 18, 1999

(S.C.R. No. 137)

A CONCURRENT RESOLUTION

RECOGNIZING THE ACCOMPLISHMENTS OF A NATIVE SON OF THE STATE OF IDAHO, JOHN H. BRANDT, AND JOINING WITH HIS MANY FRIENDS AND COLLEAGUES IN EXPRESSING OUR SYMPATHY TO HIS FAMILY AND OUR APPRECIATION FOR HIS MANY CONTRIBUTIONS.

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

WHEREAS, John H. Brandt of Nampa, noted civic leader, philanthropist, and realtor died on Friday, February 26, 1999, at a Nampa hospital; and

WHEREAS, Mr. Brandt was born in Nampa on April 7, 1904, the eldest of Herman and Grace Brandt's seven children; and

WHEREAS, he graduated magna cum laude from the College of Idaho in 1926 and, in 1932 the College of Idaho awarded him an Honorary Doctor of Law; and

WHEREAS, Mr. Brandt maintained a lifelong interest in education and was a teacher, coach, principal and superintendent in Midvale and Cambridge, served on the Nampa Board of Trustees and was president of the Idaho School Trustees Association; and

WHEREAS, Mr. Brandt founded the Brandt Agency real estate firm in 1936, and remained active in the real estate business well into his 90s, serving as president of the Idaho Association of Realtors, chairman of the Idaho Real Estate Commission and director of the National Association of Realtors in the course of his long career; and

WHEREAS, Mr. Brandt was also a longtime director of Provident Federal Savings and Loan and served as vice president and manager of the Nampa office; and

WHEREAS, Mr. Brandt developed numerous farms from sagebrush to productive row cropland in southwestern Idaho and Nevada and derived great pleasure in "making the land bloom"; and

WHEREAS, when the original plans for the Interstate called for a bypass of Nampa, he was instrumental in conceiving the present route of the Interstate and convincing the appropriate governmental agencies of the wisdom of this course of action; and

WHEREAS, Mr. Brandt was active in a broad spectrum of community affairs. He became a member of the Lions Club in 1937, and while

president, organized the development of Lincoln (Lions) Park. He received a life membership in the Lions and was named a Lions International Melvin Jones Fellow. He received the Rotary Club Award for Community Service, an honorary lifetime membership in the Nampa Chamber of Commerce, and the Robert W. Wood Award for voluntary service for the economic development of the City of Nampa. He also served as president and a director of the Nampa Industrial Commission, was a member of the Snake River Stampede Board, introduced Junior Achievement to Canyon County and served on its board for many years. He was appointed to the President's Advisory Committee of Northwest Nazarene College and received the Emerson Award for Community Service. Mr. Brandt was also appointed to the Governor's Blue Ribbon Water Committee and the Endowment Fund Investment Board; and

WHEREAS, Mr. Brandt was well-known for his philanthropy. Brandt Auditorium was named for him and his wife in recognition of their donations to the building of the Nampa Civic Center and the John H. & Orah I. Brandt Fine Arts Center at Northwest Nazarene College also honors the Brandt's generosity. In keeping with his love of learning and giving spirit, Mr. Brandt established the Brandt Free Enterprise Chair Endowment Trust at Albertson College; and

WHEREAS, his diverse interests included rock hounding, creating jewelry and other objects of art, and singing with the Nampa Barber-shop Chorus; and

WHEREAS, John Brandt was greatly loved and respected for his leadership and his devotion to his family, friends, church and community.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature recognizes the accomplishments of a native son of the state of Idaho, John H. Brandt, and join with his many friends and colleagues in expressing our sympathy to his family and our appreciation for his many contributions.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this resolution to the family of John H. Brandt and his children, Joan, Don and Marilyn.

Adopted by the Senate March 11, 1999

Adopted by the House March 19, 1999

(S.C.R. No. 138)

A CONCURRENT RESOLUTION

RECOGNIZING, HONORING AND COMMENDING MARDEE WYMAN FOR HER YEARS OF SERVICE TO THE LEGISLATURE OF THE STATE OF IDAHO UPON HER RETIREMENT.

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

WHEREAS, in January 1964, Mardee Wyman was hired as the second employee of the Legislative Council and helped establish the tradition

of a professional nonpartisan staff serving Idaho's citizen legislators; and

WHEREAS, Mardee has worked in the Legislative Branch of Government in Idaho for these thirty-five years and during this time helped process an estimated 59,000 pieces of legislation, 4,200 editions of "Mini Data," 300 editions of "Daily Data," and tens of thousands of legislative directories; and

WHEREAS, Mardee has witnessed the processing of legislation go from standard typewriters with eighteen copies per page, to "Mag-Card" machines, to CRTs to the modern computer system the Legislature enjoys today; and

WHEREAS, Mardee has been the commensurate professional always treating legislators and members of the public with warmth, friendliness and a sense of humor; and

WHEREAS, Mardee uniquely embodies the customer service culture of the Legislative Services Office and loyalty to the institution of the Legislature; and

WHEREAS, Mardee will be retiring in August 1999, concluding an era for the Idaho Legislature.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we recognize, honor and commend Mardee Wyman for her years of service to the Idaho Legislature, for her positive contributions to the Legislature, its employees and the legislative process, and wish her well in retirement.

Adopted by the Senate March 15, 1999

Adopted by the House March 18, 1999

(S.C.R. No. 139)

A CONCURRENT RESOLUTION
RELATING TO PROHIBITING FEDERAL CLAIMS AGAINST FUNDS OBTAINED BY SETTLEMENT OF TOBACCO LITIGATION.

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

WHEREAS, in November 1998, forty-six states agreed to a historic settlement with the tobacco industry ending a four-year battle with the industry over treatment costs the states have incurred for smoking-related illnesses; and

WHEREAS, the forty-six states could receive up to \$196,000,000,000 over a twenty-five year period, with the funding designated for the state of Idaho to be \$711,700,479 over the next twenty-five years; and

WHEREAS, because the Master Settlement Agreement does not restrict or earmark use of the money that will be received under the settlement, the general belief is that the funds may be appropriated according to state law; and

WHEREAS, the federal Department of Health and Human Services contends that existing Medicaid law (Sec. 1903(d), Social Security Act) compels it to recover its share of third-party payments collected by

the states on behalf of Medicaid clients, and argues that state tobacco settlement funds are third-party recoveries under the provisions of the Medicaid statute.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Idaho Legislature respectfully requests that the Congress of the United States and the Clinton Administration recognize state interests and enact legislation that would prohibit the federal Department of Health and Human Services from recouping the tobacco settlement funds as third-party recoveries under Medicaid law; and furthermore, that the Idaho Legislature supports any proposed federal legislation to prohibit recouping of the tobacco settlement funds, or the imposition of any restrictions on how the money can be spent by any branch of the federal government.

BE IT FURTHER RESOLVED that copies of this resolution shall be sent to the Honorable Larry Craig and the Honorable Mike Crapo, U.S. Senators, and the Honorable Helen Chenoweth and the Honorable Michael Simpson, U.S. Representatives, members of the Idaho delegation to the Congress of the United States.

Adopted by the Senate March 18, 1999

Adopted by the House March 19, 1999

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 2)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE LEGISLATIVE COUNCIL
TO APPOINT A COMMITTEE TO STUDY ELECTRIC UTILITY RESTRUCTURING.

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

WHEREAS, there were numerous bills introduced in Congress from 1996 through 1998 which would have provided for the restructuring of the electric utility industry in this country; and

WHEREAS, there are aggregators who are aggressively trying to find customers to purchase electric energy from them; and

WHEREAS, Idaho currently enjoys low electric rates compared to the rest of the nation, mainly because of our hydropower base; and

WHEREAS, some states, including California, have passed legislation to restructure the electric utility industry in those states; and

WHEREAS, there are some benefits to a competitive electric utility industry, there may be some large unintended consequences to the ratepayers and the citizens of the state if such a move is not carefully thought out and planned; and

WHEREAS, it is not the intent of the Legislature to have big winners and big losers as far as classes of electric customers go if the electric utility industry is restructured; and

WHEREAS, there have been many worthwhile social programs included in an electric utility's rate base such as fish mitigation, weatherization and low-income assistance programs, and the Legislature would not like to see those lost by a restructuring; and

WHEREAS, Idaho's water rights system is a complex system of management, and electric utility restructuring could affect demand loads and river flows and have some large unintended consequences if not managed properly.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a Committee to undertake and review the potential restructuring of the electric utility industry from both the statewide perspective and the national perspective. The Committee is directed to involve representatives of industry, agricultural groups, small businesses, consumers of electricity and conservation interests. The Committee is also authorized to retain the services of a consultant, within appropriated moneys, who is familiar with the electric utility industry and who can provide necessary economic or other research that can assist the Committee and the Legislature in making

an informed decision on this most important topic.

BE IT FURTHER RESOLVED that nonlegislative members of the Committee may be appointed by the cochairmen 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 make a progress report to the Second Regular Session of the Fifty-fifth Idaho Legislature and shall make a report detailing its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-sixth Idaho Legislature.

Adopted by the House January 18, 1999

Adopted by the Senate February 4, 1999

(H.C.R. No. 3)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the First Regular Session of the Fifty-fifth Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 11, 1999.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth 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 11, 1999, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 11, 1999

Adopted by the Senate January 11, 1999

(H.C.R. No. 4)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the First Regular Session of the Fifty-fifth Idaho Legislature in the Chamber of the House of Representatives at 11 a.m. on Wednesday, January 13, 1999.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth 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 13, 1999, at 11 a.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 13, 1999

Adopted by the Senate January 13, 1999

(H.C.R. No. 8)

A CONCURRENT RESOLUTION

RECOGNIZING THE ACTIVITIES AND FINDINGS OF THE FEDERAL LANDS TASK FORCE, ENDORSING ITS REPORT TO THE STATE BOARD OF LAND COMMISSIONERS, SUPPORTING FURTHER ACTION BY THE STATE BOARD OF LAND COMMISSIONERS AND URGING ACTION BY THE UNITED STATES CONGRESS.

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

WHEREAS, in 1996 the Idaho Legislature passed Senate Bill 1354, authorizing the State Board of Land Commissioners to enter into a joint exercise of powers agreement with the United States Forest Service regarding the management of certain federal lands administered by the United States Forest Service; and

WHEREAS, the State Board of Land Commissioners appointed a Federal Lands Task Force and charged its members with examining alternative methods of management of federal lands in Idaho; and

WHEREAS, beginning in October, 1996, the Federal Lands Task Force met at various locations throughout the state and received testimony from people representing a wide range of interests and perspectives on the management of federal lands; and

WHEREAS, many of those appearing before the Federal Lands Task Force were federal land management professionals who are deeply involved with and concerned about the management of federal lands; and

WHEREAS, the current system of management of federal lands has caused instability in at least one of Idaho's major industries, and has detrimentally affected other industries in the state; and

WHEREAS, many Idaho communities depend on the natural resources and recreational opportunities provided by federal lands to sustain economic stability and the healthy, productive way of life to which members of those communities are accustomed; and

WHEREAS, the State Board of Land Commissioners and the Idaho Department of Lands have demonstrated their ability to efficiently, effectively, and lawfully manage local public lands; and

WHEREAS, the Idaho Federal Lands Task Force has written and pre-

sent to the State Board of Land Commissioners a report recommending new approaches to the management of federally administered public lands; and

WHEREAS, industry and labor support the concepts presented in this report.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we endorse the report submitted by the Federal Lands Task Force to the Idaho Board of Land Commissioners, support further action by the Idaho Board of Land Commissioners on the proposals contained in the report, and urge the 106th Congress of the United States to pass legislation implementing the recommendations contained in the report.

Adopted by the House February 8, 1999

Adopted by the Senate March 3, 1999

(H.C.R. No. 9)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE REGARDING THE BUDGET STABILIZATION FUND AND DIRECTING THE STATE CONTROLLER TO NOT TRANSFER GENERAL FUNDS TO THE BUDGET STABILIZATION FUND IN FISCAL YEAR 2000.

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

WHEREAS, the Economic Outlook and Revenue Assessment Committee of the First Regular Session of the Fifty-fifth Idaho Legislature has determined that the executive revenue projection is a reasonable revenue estimate; and

WHEREAS, Section 57-814(2)(a), Idaho Code, directs the State Controller to transfer certain funds to the Budget Stabilization Fund only if revenues are in excess of four percent over the previous fiscal year; and

WHEREAS, the executive revenue projection for fiscal year 1999 is less than a four percent increase over the previous fiscal year; and

WHEREAS, Section 57-814(3), Idaho Code, authorizes the Legislature through concurrent resolution to reduce the transfers made by the State Controller to the Budget Stabilization Fund.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the State Controller is hereby directed not to transfer general funds to the Budget Stabilization Fund pursuant to Section 57-814, Idaho Code, during fiscal year 2000.

Adopted by the House February 10, 1999

Adopted by the Senate February 18, 1999

(H.C.R. No. 10)

A CONCURRENT RESOLUTION

PROVIDING FOR OFFSET PRINTING OF HOUSE AND SENATE BILLS, RESOLUTIONS, MEMORIALS AND AMENDMENTS, AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee have, according to law, made provisions for the offset printing of the House and Senate bills, resolutions, memorials and amendments;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the offset printing of the House and Senate bills, resolutions, memorials, and amendments, in accordance with the provisions of law and in accordance with the written contract between the Joint Committee as party of the first part, and BEST IMPRESSION PRINTING, Boise, Idaho, as party of the second part, be, and the same is hereby ratified and concurred in, and is incorporated herein, and made a part of this resolution in words and figures following, to wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 11th day of January, 1999, by and between the HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-fifth Idaho Legislature, hereinafter referred to as the Joint Committee, and BEST IMPRESSION PRINTING, hereinafter referred to as Best Impression.

WITNESSETH:

That pursuant to written bids submitted to and considered by the Joint Committee, a contract for legislative printing is hereby awarded to Best Impression per your letter response of October 30, 1998, for the First and Second Regular Sessions and any Extraordinary Sessions of the Fifty-fifth Idaho Legislature upon the following additional terms and conditions:

1. That Best Impression will utilize an offset process from "Camera Ready" copies, as these terms are used and recognized in the trade, to print House and Senate Bills, Resolutions and Memorials.

2. That Best Impression concurrently with the execution of this contract, deliver to the Joint Committee good and sufficient surety bond or other collateral, if and when requested, in the manner and form, and with a surety acceptable to the Joint Committee, in the sum of five thousand dollars (\$5,000), guaranteeing the satisfactory and faithful performance by Best Impression of all the terms and conditions of this contract.

3. That Best Impression will maintain at all times a high standard of workmanship to the end that all printing will be neat, clean, legible and with adequate contrast between print and paper to be easily read.

4. That Best Impression will insure that all bills, resolutions and memorials will have neat and proper underlining, strikeouts and deletions and that the paper used will be properly punched and sized.

5. That for the purposes of this contract, all printing will be received from and delivered to the presiding officer of each house or his designee.

6. That Best Impression will deliver all standard lot printed material conforming to the above requirements by 9 a.m. the next morning after receipt of copy, unless prior arrangements have been made.

7. Upon failure to deliver such bills in the manner and within the time herein specified, this contract may be deemed terminated forthwith at the option of the Joint Committee and recourse had against Best Impression's bond.

8. That a standard lot of printed material will be five hundred fifty (550) copies or less of individual bills, resolutions or memorials at a cost of sixteen dollars and fifty cents (\$16.50) per printed page which shall also provide for more or less copies in units of one hundred (100) at the same rate per page.

9. That Best Impression will pick up "Camera Ready" copy at least twice daily of each day that the Legislature is in session.

10. That Best Impression shall make copies available for sale to the public at the base per page rate, provided the order for such is received prior to the time the bill is printed.

11. That the Joint Committee reserves to itself the sole and exclusive decision as to the proper fulfillment of the terms and conditions of this agreement by Best Impression, and that the Joint Committee may terminate this agreement upon twenty-four (24) hours notice to Best Impression, with no liability accruing to the Joint Committee or the State except for printing already completed and delivered. The Joint Committee reserves the right to review and revise this contract prior to the First Regular Session of the Fifty-fifth Idaho Legislature.

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands as of the day and year first above written.

By /s/ Bruce Newcomb
BRUCE NEWCOMB, Speaker of the House

HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

By /s/ Celia R. Gould
CELIA R. GOULD, Chairman

By /s/ Jerry T. Twiggs
JERRY T. TWIGGS, President Pro Tempore

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Denton Darrington
DENTON DARRINGTON, Chairman

BEST IMPRESSION PRINTING

By /s/ Richard W. Flintzer
RICHARD W. FLINTZER, Owner

Adopted by the House January 26, 1999
Adopted by the Senate February 3, 1999

(H.C.R. No. 11)

A CONCURRENT RESOLUTION
PROVIDING FOR PRINTING THE HOUSE AND SENATE LEGISLATIVE DAILY JOURNALS
AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, Section 67-509, Idaho Code, has made provisions for the printing of the House and Senate Legislative Daily Journals;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED, by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, that the contract for the printing of the House and Senate Legislative Daily Journals in accordance with the provisions of law and in accordance with the written contract between the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee, as party of the first part, and Bureau of Copy and Record Services, of Boise, Idaho, as party of the second part, be, and the same is hereby ratified and confirmed, and is incorporated herein and made a part of this resolution, in words and figures following, to wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 11th day of January, 1999, by and between the HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-fifth Idaho Legislature, hereinafter mentioned as party of the first part, and BUREAU OF COPY AND RECORD SERVICES, Boise, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH:

That pursuant to a resolution of said party of the first part and written quotation submitted by party of the second part, a contract for legislative printing is hereby awarded to the said Bureau of Copy and Record Services, as follows:

HOUSE AND SENATE DAILY JOURNAL
FIRST REGULAR SESSION

350 copies of House Journal	
350 copies of Senate Journal	
700 total copies	\$33.25 per page
100 additional copies	\$ 5.45 per page

HOUSE AND SENATE DAILY JOURNAL
SECOND REGULAR SESSION

350 copies of House Journal	
350 copies of Senate Journal	
700 total copies	\$33.25 per page
100 additional copies	\$ 5.45 per page

IT IS AGREED by the parties hereto that all of said printing shall be done in the form and manner and upon such suitable material as was included in the bid specifications and is now required by the statutes of the State of Idaho; where not otherwise herein provided, such statutes shall be controlling, and particularly as to the printing of Legislative Journals, the same shall be printed in conformity with Section 67-509, Idaho Code, which section is hereby referred to and by reference made a part of this contract as though set forth herein at length; that the number of copies to be supplied under this contract may from time to time be determined by the party of the first part; and that all other terms of the specifications for the Journals of the party of the first part shall be complied with as though set forth herein at length.

IT IS AGREED that in the printing of the Journal the same shall be delivered daily on the desk of the Chief Clerk of the House, and on the desk of the Secretary of the Senate not later than the hour of 9 a.m. on each day; provided, that the party of the second part shall not be responsible in this respect, in cases of unreasonable delay in furnishing copy for such printing to the party of the second part.

The party of the second part further covenants and agrees to deliver to the party of the first part good and sufficient surety bond or other collateral, if and when requested, in the manner and form, and with a surety acceptable to party of the first part, in the sum of Five Thousand Dollars (\$5,000), guaranteeing the satisfactory and faithful performance by the party of the second part of all the conditions and covenants of this contract.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper official and the party of the first part, by Concurrent Resolution, has caused these presents to be executed by its proper officials.

Party of the First Part

By /s/ Bruce Newcomb
BRUCE NEWCOMB, Speaker of the House

HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

By /s/ Celia R. Gould
CELIA R. GOULD, Chairman

By /s/ Jerry T. Twiggs
JERRY T. TWIGGS, President Pro Tempore

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Denton Darrington
DENTON DARRINGTON, Chairman

Party of the Second Part

BUREAU OF COPY AND RECORD SERVICES

By /s/ Mona R. Whittington
MONA R. WHITTINGTON, Supervisor

Adopted by the House January 26, 1999
Adopted by the Senate February 3, 1999

(H.C.R. No. 12)

A CONCURRENT RESOLUTION

PROVIDING FOR PRINTING THE SESSION LAWS, FIXING THE PRICE FOR PRINTING THE SAME, AND THE PRICE WHICH THE PUBLIC SHALL BE CHARGED FOR COPIES OF THE SESSION LAWS.

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

WHEREAS, Section 67-904, Idaho Code, has made provisions for the printing of the Session Laws;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho hereinafter referred to as the Joint Committee;

BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the printing of the Session Laws of the First and Second Regular Sessions, Fifty-fifth Idaho Legislature, and the Session Laws of any Extraordinary Session, Fifty-fifth Idaho Legislature, in accordance with the provisions of

law and in accordance with the written contract between the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the Joint Committee as party of the first part, and THE CAXTON PRINTERS, LTD., of Caldwell, Idaho, as party of the second part, be, and the same is hereby ratified, confirmed and concurred in, and is incorporated herein and made a part of this resolution, in words and figures following, to wit:

PRINTING CONTRACT

THIS AGREEMENT, made and entered into this 11th day of January, 1999, by and between the Speaker of the House of Representatives, Bruce Newcomb, and the President Pro Tempore of the Senate, Jerry T. Twiggs, the Joint Committee of the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho, hereinafter mentioned as party of the first part, and THE CAXTON PRINTERS, LTD., of Caldwell, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH:

That pursuant to a resolution of said party of the first part and written bid submitted to the said party of the first part by the party of the second part, contract for legislative printing is hereby awarded to said THE CAXTON PRINTERS, LTD., as follows:

SESSION LAWS

For printing and binding one thousand two hundred (1,200) copies of the Session Laws of the First Regular Session of the Fifty-fifth Idaho Legislature and for printing and binding one thousand two hundred (1,200) copies of the Session Laws of the Second Regular Session of the Fifty-fifth Idaho Legislature and the Session Laws of any Extraordinary Session of the Fifty-fifth Idaho Legislature: Twenty-five dollars and seventy-five cents (\$25.75) per page, f.o.b. Boise, Idaho, if produced by offset lithography with camera-ready copy being furnished party of the second part, plus five dollars and fifty cents (\$5.50) per volume for binding. For pages requiring reduction shots, an additional seven dollars (\$7.00) per page charge. Each volume to be Smythe sewed, rounded and backed with suitable headbands and Roxite Library Buckram over a 15 point Red Label Davey Board. The party of the second part shall provide an additional quantity to be made available to the general public at thirty-five dollars (\$35.00) per single volume, and forty-two dollars (\$42.00) per set of two volumes, if a second volume is required. The Session Laws of any Extraordinary Session adjourned prior to June 1, 1999, shall be included in the Session Laws of the First Regular Session, or if adjourned prior to June 1, 2000, shall be included in the Session Laws of the Second Regular Session. No charge shall be made by the party of the second part for proofreading or blank pages.

IT IS AGREED between the parties hereto that all of said printing shall be done in the form and manner as submitted in written bid dated October 5, 1998, by party of the second part, and in compliance with the statutes of the State of Idaho where not otherwise provided, such statutes shall be controlling.

IT IS FURTHER AGREED that said Session Laws shall be printed, delivered to and be ready for distribution by the Secretary of State

in conformity with the provisions of Section 67-904, Idaho Code, which section is hereby referred to and by such reference made a part of this contract as though set forth at length herein, and particularly as follows:

The Session Laws shall be printed and made available for distribution within sixty (60) days after the last day on which the Governor may sign or approve bills following adjournment of the session of the legislature which enacted or passed the measures included in the Session Laws, or within thirty (30) days after the delivery to the party of the second part of the proper title pages, certificate pages, tables of laws and statutes amended and repealed and a proper index of the contents of the Session Laws, whichever date is first in time.

Such printing and delivery of said Session Laws to the Secretary of State are to be made as provided by law; that for each day's failure to so deliver volumes of such Session Laws as herein provided, there shall be deducted from the contract price for printing said Session Laws the sum of fifty dollars (\$50.00) per day for each day's delay; provided, however, that the party of the second part shall not be held responsible for delay occasioned by failure to furnish copy for such printing to the party of the second part and such delay shall, to the same extent, extend the time for the performance of this agreement.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper officials, and the party of the first part, by Concurrent Resolution has caused these presents to be executed by its proper officials.

Party of the First Part

By /s/ Bruce Newcomb
BRUCE NEWCOMB, Speaker of the House

HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

By /s/ Celia R. Gould
CELIA R. GOULD, Chairman

By /s/ Jerry T. Twiggs
JERRY T. TWIGGS, President Pro Tempore

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Denton Darrington
DENTON DARRINGTON, Chairman

Party of the Second Part

THE CAXTON PRINTERS, LTD.

By /s/ Dave Gipson
DAVE GIPSON, Vice President

Adopted by the House January 26, 1999
Adopted by the Senate February 3, 1999

(H.C.R. No. 13)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND APPROVING AN ADMINISTRATIVE RULE OF
THE DEPARTMENT OF TRANSPORTATION RELATING TO TOURIST ORIENTED
DIRECTIONAL SIGNS THAT IMPOSES FEES OR CHARGES.

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 Idaho Transportation Department has submitted as pending rules for review by the Legislature certain rules which incorporate by reference a publication that establishes new fees and increases existing fees, which fees shall not go into effect unless affirmatively approved by concurrent resolution; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this concurrent resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and Senate concurring therein, that IDAPA 39.03.64.002, a rule of the Idaho Transportation Department relating to incorporating by reference a publication concerning tourist oriented directional signs, adopted as a pending rule under Docket Number 39-0364-9801, be, and the same is hereby approved.

BE IT FURTHER RESOLVED that it is legislative intent that this approval extends only to the incorporated fees or charges that currently are before the Legislature, and that any changes in the incorporated fees or charges that may occur in the future shall be submitted as rules imposing a fee or charge to the Administrative Rules Coordinator and submitted to the Legislature for review and approval as rules imposing a fee or charge pursuant to the provisions of Section 67-5224, Idaho Code, and that any future changes in incorporated fees or charges shall be null, void and of no force and effect unless and until approved by adoption of a concurrent resolution by both houses of the Legislature.

Adopted by the House February 9, 1999
Adopted by the Senate March 15, 1999

(H.C.R. No. 17)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND SUPPORTING HEALTHY STOCKS OF ANADROMOUS FISH AND OPPOSING FLOW AUGMENTATION AND THE REMOVAL OF DAMS ON THE SNAKE RIVER AND ITS TRIBUTARIES.

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

WHEREAS, the Legislature of the State of Idaho recognizes the vital contributions the Snake River and its tributaries bring to the state's economic well-being and to the state's quality of life; and

WHEREAS, the Legislature of the State of Idaho supports the continued multiple uses of the Snake River and its tributaries for fish and wildlife, hydropower generation, irrigation, transportation, flood control and recreation; and

WHEREAS, the Legislature of the State of Idaho recognizes the legal priority that agricultural irrigation and industrial applications of water have within the state; and

WHEREAS, the Legislature of the State of Idaho believes that the removal or breaching of dams on the Snake River and its tributaries, and water taken from the state for anadromous fish enhancement efforts would inflict on the citizenry of the state a loss of recreational opportunities, an increase in electrical rates, a loss of recharge water for the state's aquifers, a loss of navigation, an increased risk of floods, a reduction in economic activity and a threatened quality of life; and

WHEREAS, the above-mentioned activities would create water shortages within the state resulting in the idling of a large acreage of productive Idaho farmland; and

WHEREAS, the Legislature of the State of Idaho believes that the anadromous fish decline is due to many factors, some of which are diminished habitat, increased predation, unfavorable ocean conditions, hatchery practices, harvest impacts, changing climatic conditions as well as hydropower generating dams; and

WHEREAS, the Legislature of the State of Idaho recognizes the need to protect and enhance anadromous fish populations and will work to accomplish this while also protecting the needs of the citizens of the state.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that federal and state enhancement efforts for anadromous fish must be undertaken in a manner which protects Idaho's sovereignty over its water resources, protects dams on the entire Snake River and prohibits contributions of water from Idaho's reservoirs for flow augmentation except those authorized by the state of Idaho.

Adopted by the House March 4, 1999

Adopted by the Senate March 12, 1999

(H.C.R. No. 18)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE IDAHO FISH AND GAME COMMISSION RELATING TO MANDATORY DEER AND ELK REPORT REQUIREMENTS AND THE USE OF DOGS.

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 Idaho Fish and Game Commission relating to mandatory deer and elk report requirements and the use of dogs are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 13.01.08, Section 421, Subsection 01 only, rules of the Idaho Fish and Game Commission relating to mandatory deer and elk report requirements, adopted as a pending rule under Docket Number 13-0108-9802, and IDAPA 13.01.15, Idaho Fish and Game Commission relating to the use of dogs, adopted as a pending rule under Docket Number 13-0115-9801, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 26, 1999

Adopted by the Senate March 16, 1999

(H.C.R. No. 19)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF THE CONSTRUCTION INDUSTRY TO CONSIDER THE CONSOLIDATION OF GOVERNMENT AGENCIES FOR THE EFFICIENT MANAGEMENT OF LAWS AND RULES WHICH GOVERN THE LICENSING AND OPERATIONS OF THE CONSTRUCTION INDUSTRY, AND TO REVIEW LAWS REGULATING THE CONSTRUCTION INDUSTRY FOR SUFFICIENCY AND RELATION TO CURRENT PRACTICES.

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

WHEREAS, the construction industry in Idaho is second only to agriculture as a prime contributor to the economy; and

WHEREAS, it is important to recognize that primary subcontractors contribute more than fifty percent to building projects; and

WHEREAS, these subcontractors should be afforded reasonable legislative protection as to risk and investment; and

WHEREAS, the state public works contractors licensing board does

not have the staff available to adequately investigate applications and verify financial status of applicants for licensure or for upgrade of licenses; and

WHEREAS, members of the industry are currently required to deal with multiple and separate government agencies in order to conduct their business; and

WHEREAS, a central location for members of the industry to conduct business with the various government agencies would save time and money; and

WHEREAS, a central location would allow for better control of out-of-state contractors and enable the collection of taxes due to Idaho from such contractors; and

WHEREAS, in the interest of efficiency and economy and to ensure cooperative decisions, the rules and laws of the division of building safety, the department of public works, the state public works contractors licensing board, and enforcement of the national energy code (ASHFE-90-1), should be managed by a central administration; and

WHEREAS, legislation relating to the industry should be updated to current construction methods, public works licensing procedures and financial contracts, and relationships between contractor and subcontractor should be clarified.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized and directed to appoint an interim committee to undertake and complete a study of the construction industry to consider the consolidation of government agencies for the efficient management of laws and rules which govern the licensing and operations of the construction industry, and to review laws regulating the construction industry for sufficiency and relation to current practices.

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 Second Regular Session of the Fifty-fifth Idaho Legislature.

Adopted by the House March 10, 1999

Adopted by the Senate March 17, 1999

(H.C.R. No. 21)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM AND OPTIONS WHICH COULD PROVIDE ENHANCEMENTS OR ALTERNATIVES TO THE EXISTING PROVISIONS.

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

WHEREAS, the Legislature is aware of the importance of the Public Employee Retirement System (PERSI) and the benefits provided to employees of the state and many political subdivisions as a part of this system; and

WHEREAS, several matters have come before the Legislature addressing enhancements to PERSI; and

WHEREAS, it is essential to maintain and assure the fiscal integrity of PERSI, but to also assure that the state and other participating entities continue to provide a competitive benefit program and maintain sufficient alternatives to attract and keep a quality work force;

WHEREAS, a comprehensive review of existing PERSI benefits and alternative benefits which might be provided is warranted.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth 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 Public Employee Retirement System and options which could provide enhancements or alternatives to the existing provisions. It is intended that the study will include a review of what, if any, unfunded mandates these measures might pass along to local governments, as well as a review of the study conducted by PERSI in 1997, which provides a comparison of the PERSI plan (defined benefit) and defined contribution options. 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 Second Regular Session of the Fifty-fifth Idaho Legislature.

Adopted by the House March 8, 1999

Adopted by the Senate March 17, 1999

(H.C.R. No. 25)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND SEEKING CONGRESSIONAL REAFFIRMATION OF SUPPORT FOR STATE SOVEREIGNTY OVER WATER AND FISH AND WILDLIFE RESOURCES.

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

WHEREAS, the Legislature of the State of Idaho recognizes the vital contributions water, fish and wildlife provide to the state's economic well-being and to the state's quality of life; and

WHEREAS, the Legislature of the State of Idaho supports the continued multiple uses of its water for fish and wildlife, hydropower generation, irrigation, transportation, flood control and recreation; and

WHEREAS, Congress has historically deferred to state water law; and

WHEREAS, states have traditionally been responsible for the management of their fish and wildlife resources; and

WHEREAS, the Legislature of the State of Idaho has enacted comprehensive statutory schemes for the allocation of water and for the management of fish and wildlife; and

WHEREAS, various federal agencies under the auspices of the Endangered Species Act are preempting or interfering with Idaho's management of its fish and wildlife resources and seeking releases of water from reservoirs within Idaho for anadromous fish; and

WHEREAS, there is no evidence to show that releases of water from Idaho reservoirs will result in the recovery of the listed anadromous fish; and

WHEREAS, the Legislature of the State of Idaho believes that water taken from the state for anadromous fish enhancement efforts would inflict on the citizenry of the state a loss of recreational opportunities, an increase in electrical rates, a loss of recharge water for the state's aquifers, a reduction in economic activity and quality of life; and

WHEREAS, the above-mentioned activities would create water shortages within the state resulting in the idling of a large acreage of productive Idaho farmland; and

WHEREAS, the Legislature of the State of Idaho recognizes the need to protect and enhance anadromous fish populations and will work to accomplish this while also protecting the needs of the citizens of the state through state law.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that federal and state enhancement efforts for anadromous fish must be undertaken in a manner which protects Idaho's sovereignty over its water resources and prohibits contributions of water from Idaho's reservoirs for flow augmentation except as authorized under state law.

BE IT FURTHER RESOLVED by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Speaker of the House of Representatives and the President Pro Tempore of the Senate request Congress to enact legislation reaffirming its deference to state law governing the allocation of water and management of fish and wildlife.

Adopted by the House March 12, 1999

Adopted by the Senate March 17, 1999

(H.C.R. No. 30)

A CONCURRENT RESOLUTION

PROVIDING FOR PRINTING THE HOUSE AND SENATE LEGISLATIVE PERMANENT JOURNALS AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, Section 67-509, Idaho Code, has made provisions for the printing of the House and Senate Legislative Permanent Journals;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED, by the members of the First Regular Session of the Fifty-fifth Idaho Legislature, that the contract for the printing of the House and Senate Legislative Permanent Journals in accordance with the provisions of law and in accordance with the written contract between the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee, as party of the first part, and Best Impression Printing, of Boise, Idaho, as party of the second part, be, and the same is hereby ratified and confirmed, and is incorporated herein and made a part of this resolution, in words and figures following, to wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 5th day of March, 1999, by and between the HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-fifth Idaho Legislature, hereinafter mentioned as party of the first part, and BEST IMPRESSION PRINTING, Boise, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH:

That pursuant to a resolution of said party of the first part and written quotation submitted by party of the second part, a contract for legislative printing is hereby awarded to the said Best Impression Printing, as follows:

PERMANENT JOURNAL
FIRST REGULAR SESSION

- 250 copies of House Permanent Journal, including 6 hard-bound gold lettered volumes
- 250 copies of Senate Permanent Journal, including 6 hard-bound gold lettered volumes
- 512 total copies \$49.00 per page
- Additional hard-bound gold lettered volumes \$99.00 per volume

IT IS AGREED by the parties hereto that all of said printing shall be done in the form and manner and upon such suitable material as was included in the bid specifications and is now required by the statutes of the State of Idaho; where not otherwise herein provided, such statutes shall be controlling, and particularly as to the printing of Leg-

islative Journals, the same shall be printed in conformity with Section 67-509, Idaho Code, which section is hereby referred to and by reference made a part of this contract as though set forth herein at length; that the number of copies to be supplied under this contract may from time to time be determined by the party of the first part; and that all other terms of the specifications for the Journals of the party of the first part shall be complied with as though set forth herein at length.

IT IS FURTHER AGREED, that the permanent printed Journal shall be delivered to the Chief Clerk of the House not later than thirty (30) working days from date of receipt of final House copy, and to the Secretary of the Senate not later than thirty (30) working days from date of receipt of final Senate copy, and that for each day's failure to so deliver, there shall be deducted from the contract price for printing said Journal the sum of Fifty Dollars (\$50.00) per day for each day's delay.

The party of the second part further covenants and agrees to deliver to the party of the first part good and sufficient surety bond or other collateral, if and when requested, in the manner and form, and with a surety acceptable to party of the first part, in the sum of Five Thousand Dollars (\$5,000), guaranteeing the satisfactory and faithful performance by the party of the second part of all the conditions and covenants of this contract.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper official and the party of the first part, by Concurrent Resolution, has caused these presents to be executed by its proper officials.

Party of the First Part

By /s/ Bruce Newcomb
BRUCE NEWCOMB, Speaker of the House

HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

By /s/ Celia R. Gould
CELIA R. GOULD, Chairman

By /s/ Jerry T. Twiggs
JERRY T. TWIGGS, President Pro Tempore

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Denton Darrington
DENTON DARRINGTON, Chairman

Party of the Second Part

BEST IMPRESSION PRINTING

By /s/ Richard W. Flintzer
RICHARD W. FLINTZER, OWNER

Adopted by the House March 16, 1999

Adopted by the Senate March 18, 1999

(H.C.R. No. 31)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF NATURAL RESOURCE ISSUES.

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

WHEREAS, a number of major water and natural resource related issues are working their way through various forums and are all subjects that require legislative scrutiny; and

WHEREAS, these issues include the effort to negotiate a settlement of the Nez Perce tribal claims in the Snake River Basin Adjudication, the development of the 1999 biological opinion by the National Marine Fisheries Service for salmon recovery, the expiration and potential renewal of legislation authorizing the use of 427,000 acre feet of Idaho water for salmon recovery and evolving water rights issues connected to electric utility restructuring; and

WHEREAS, these issues are all events which will have major impacts upon the future of Idaho and the quality of life our citizens enjoy; and

WHEREAS, it would be more efficient, less costly, and foster better relationships to discuss in advance the potential renewal of legislation authorizing the use of 427,000 acre feet of Idaho water for salmon recovery than to have the U.S. Bureau of Reclamation's transfer applications, as referenced in Section 42-1763B, Idaho Code, move forward; and

WHEREAS, the Legislature has also approved a committee to study the subject of electric utility restructuring which is a large subject in and of itself, but is one that needs to be coordinated with the above natural resource issues.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fifth 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 various natural resource issues including, but not limited to, the effort to negotiate a settlement of the Nez Perce tribal claims in the Snake River Basin Adjudication, the development of the 1999 biological opinion by the National Marine Fisheries Service for salmon recovery, the expiration and potential renewal of legislation authorizing the

use of 427,000 acre feet of Idaho water for salmon recovery and evolving water rights issues connected to electric utility restructuring. The committee shall consist of ten legislators with five from the Senate and five from the House of Representatives. The Legislative Council shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature. All interested parties, including those protestants and intervenors to the Bureau of Reclamation's 1995 water right transfer applications, shall be afforded the opportunity to provide input to the committee.

BE IT FURTHER RESOLVED that upon agreement by the U.S. Bureau of Reclamation to meet and discuss salmon recovery issues prior to January 1, 2000, and the Bureau of Reclamation's expression of willingness to the Idaho Department of Water Resources that the above-referenced transfer applications be held in abeyance, the committee shall study whether mutually satisfactory legislation can be developed on the issue to present for consideration by the Second Regular Session of the Fifty-fifth Idaho Legislature in the year 2000.

BE IT FURTHER RESOLVED that the cochairmen of this committee shall consult and coordinate with the cochairmen of the committee on Electric Utility Restructuring.

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 make a progress report to the Second Regular Session of the Fifty-fifth Idaho Legislature and shall make a report detailing its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-sixth Idaho Legislature; provided that the committee shall make a report detailing its findings, recommendations and proposed legislation, if any, regarding the potential renewal of legislation authorizing the use of 427,000 acre feet of Idaho water for salmon recovery to the Second Regular Session of the Fifty-fifth Idaho Legislature.

Adopted by the House March 12, 1999

Adopted by the Senate March 17, 1999

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, First Regular Session thereof, which convened January 11, 1999, and which adjourned on March 19, 1999, 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 twenty-third day of April, 1999.

Pete 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.

CONSTITUTIONAL AMENDMENTS

**Submitted for Vote at General Election
November 3, 1998**

SENATE JOINT RESOLUTIONS

(S.J.R. No. 101)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 17, ARTICLE V, AND SECTION 27, ARTICLE V, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO THE SALARIES OF JUSTICES AND JUDGES AND CHANGE IN COMPENSATION OF OFFICERS, TO DELETE OBSOLETE LANGUAGE, TO PROVIDE THAT THE SALARIES OF JUSTICES AND JUDGES SHALL BE AS PROVIDED BY STATUTE, TO CLARIFY THAT JUDGES OF THE COURT OF APPEALS AND MAGISTRATE JUDGES SHALL SUBSCRIBE AN OATH REGARDING A THIRTY DAY DISPOSITION OF CASES SUBMITTED TO THEM AND TO CLARIFY THAT THE LEGISLATURE MAY INCREASE OR DIMINISH THE COMPENSATION OF JUDGES OF THE COURT OF APPEALS AND MAGISTRATE JUDGES; 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 17, Article V, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 17. SALARIES OF JUSTICES AND JUDGES. The salary of the justices of the Supreme Court, ~~until otherwise provided by the legislature, shall be three thousand dollars (\$3,000) each per annum, and~~ the salary of judges of the court of appeals, the salary of the judges of the district court, until otherwise provided by the legislature, shall be three thousand dollars (\$3,000) each per annum and the salary of magistrate judges shall be as provided by statute, and no justice of the Supreme Court, or judge of the court of appeals, judge of the district court or magistrate judge, shall be paid his salary, or any part thereof, unless he shall have first taken and subscribed an oath that there is not in his hands any matter in controversy not decided by him which had been finally submitted for his consideration and determination, thirty ~~(30)~~ days prior to the taking and subscribing such oath.

SECTION 2. That Section 27, Article V, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 27. CHANGE IN COMPENSATION OF OFFICERS. The

legislature may by law diminish or increase the compensation of any or all of the following officers, to wit: governor, lieutenant governor, secretary of state, state controller, state treasurer, attorney general, superintendent of public instruction, ~~commissioner of immigration and labor~~; justices of the Supreme Court, and judges of the court of appeals and district courts and ~~district-attorney~~ magistrate judges; but no diminution or increase shall affect the compensation of the officer then in office during his term, provided, however, that the legislature may provide for the payment of actual and necessary expenses of these officers incurred while in performance of official duty.

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 17, Article V, and Section 27, Article V, of the Constitution of the State of Idaho be amended to delete obsolete language and to provide that the salaries of justices and judges shall be as provided by statute, to clarify that judges of the Court of Appeals and magistrate judges shall subscribe an oath regarding a thirty day disposition of cases submitted to them and to clarify that the legislature may increase or diminish the compensation of judges of the Court of Appeals and magistrate judges?"

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.

Approved at General Election, November 3, 1998.

(S.J.R. No. 102)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO SALARIES AND FEES OF OFFICERS OF THE EXECUTIVE DEPARTMENT, TO DELETE OBSOLETE LANGUAGE AND AMOUNTS BY REPEALING SECTION 19, ARTICLE IV; 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 19, Article IV, of the Constitution of the State of Idaho, be, and the same is hereby repealed.

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 19, Article IV, of the Constitution of the State of Idaho, relating to salaries and fees of the officers of the executive department be repealed?".

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.

Approved at General Election, November 3, 1998.

(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.

Approved at General Election, November 3, 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.

Approved at General Election, November 3, 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 REPAYED 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 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 irrevocable 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.

Approved at General Election, November 3, 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.

Approved at General Election, November 3, 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, the 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.

Approved at General Election, November 3, 1998.

INITIATIVES

PROPOSITION ONE

INITIATIVE ALLOWING CONGRESSIONAL CANDIDATES TO SIGN TERM LIMITS PLEDGE;
INFORMS VOTERS ON THE BALLOT IF CANDIDATE SIGNS OR BREAKS PLEDGE.

Initiative enacting new Idaho Code Section 34-907B; authorizes Secretary of State to accept signed term limits pledge from congressional candidates; specifying language of term limits pledge; requiring Secretary of State to place term limits pledge information on ballots; requiring Secretary of State to place term limits pledge information in polling places; defining congressional terms of office; conferring standing upon initiative sponsors; authorizing Secretary of State to promulgate rules; and containing a severability clause.

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

Section 1: This act shall be known as and may be cited as The Congressional Term Limits Pledge Act of 1998.

Section 2: That Chapter 9, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereof of a NEW SECTION, to be known and designated as Section 34-907B, Idaho Code, and to read as follows:

34-907B. Term Limits Pledge. (1) The Secretary of State shall permit but not require any candidate for the United States Congress to submit to the Secretary of State an executed copy of the Term Limits Pledge set forth in subsection (2) of this section up until 15 days prior to the Secretary of State's certification of the ballot in order for the ballot information set forth in subsections (3) and (4) of this section to be included on that ballot.

(2) The Term Limits Pledge will be as set forth herein and will incorporate the applicable language in brackets, "[]" for the office the candidate seeks:

I voluntarily pledge not to serve in the United States [House of Representatives for more than three (3) terms] [Senate more than two (2) terms] after the effective date of this provision. I understand that informing the voters that I have taken this pledge is important to the voters. I therefore authorize, instruct and ask the Secretary of State to notify the voters of this action by placing the applicable ballot information, "Signed TERM LIMITS pledge to serve no more than [three (3) terms] [two (2) terms]" or "Broke TERM LIMITS pledge" next to my name on every election ballot and in all state sponsored voter education material in which my name appears as a candidate for the office to which the pledge refers.

Signature

Date

(3) The Secretary of State shall place on every election ballot and in all state sponsored voter education material the applicable ballot information, "Signed TERM LIMITS pledge to serve no more than [three (3) terms] [two (2) terms]" next to the name of any candidate for the office of United State Representative and United States

Senator who has ever executed the Term Limits Pledge except when subsection (4) of this section applies.

(4) The Secretary of State shall place on every election ballot and in all state sponsored voter education material the ballot information, "Broke TERM LIMITS pledge" next to the name of any candidate who at any time executes the Term Limits Pledge and thereafter qualifies as a candidate for a term that would exceed the number of terms set forth in the Term Limits Pledge.

(5) The Secretary of State, or designated election official, at every election for U.S. Representative or U.S. Senator held after the effective date of this act, and notwithstanding the provisions of any other potential conflicting statute, including Idaho Code sections 18-2318 and 18-2323, shall post in a conspicuous place in every polling location a copy of the Term Limits Pledge set forth in subsection (2).

(6) For the purpose of this section, service in office for more than one-half of a term shall be deemed service for a term.

(7) The state recognized proponents and sponsors of this initiative shall have standing to defend this initiative against any challenge in any court.

(8) The Secretary of State shall implement this act by rule as long as such rules do not alter the intent of this section.

(9) If any portion, clause or phrase of this act is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, the remaining portions, clauses, and phrases shall not be affected, but shall remain in full force and effect.

PROCLAMATION

WHEREAS, The Secretary of State, in the presence of the Governor, has canvassed the votes cast on November 3, 1998, concerning Initiative Petition No. 1 (Initiative allowing congressional candidates to sign term limits pledge; informs voters on the ballot if candidate signs or breaks pledge.), and,

WHEREAS, The results show that the said Initiative Petition has received 192,390 "Yes" votes, 159,615 "No" votes, and

WHEREAS, The "Yes" vote on Initiative Petition No. 1 is more than a majority of the vote cast for said Initiative Petition No. 1.

NOW, THEREFORE, I PHILIP E. BATT, Governor of the State of Idaho, pursuant to Section 34-1813, Idaho Code, do hereby proclaim that Initiative Petition No. 1 has been approved by the people of the State of Idaho and is in full force and effect as the law of the State of Idaho.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the Twentieth day of November, in the year of our Lord One Thousand Nine Hundred and Ninety-Eight and of the Independence of the United States of America the Two Hundred and Twenty-third.

BY THE GOVERNOR:

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDERS

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EXECUTIVE ORDER NO. 98-05

ESTABLISHING STATEWIDE POLICIES ON COMPUTER, THE INTERNET AND
ELECTRONIC MAIL USAGE BY STATE EMPLOYEES
REPEALING AND REPLACING EXECUTIVE ORDER NO. 97-17

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;
 - d. Use in applying for or administering grants or contracts for state government research programs; and
 - e. Occasional personal use of electronic mail in lieu of telephonic communication.
2. All other uses not enumerated in Section 1 are prohibited.
3. 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. Upon 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.
4. 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 thirteenth day of May 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.

BY THE GOVERNOR:

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-06

ESTABLISHING THE STATE PLANNING COUNCIL ON MENTAL HEALTH
REPLACING EXECUTIVE ORDER NO. 94-03

WHEREAS, adults with severe mental illness and children with serious emotional disturbance have unique abilities, motivations, concerns and diverse needs; and

WHEREAS, severe mental illness and serious emotional disturbance interfere with the vital development and maturation of our state's most important resource--its people; and

WHEREAS, severe mental illness and serious emotional disturbance are increasingly treatable disabilities with excellent prospects for remedy and recovery with the appropriate treatment and support; and

WHEREAS, the appropriate treatment of adults with severe mental illness and children and youth with serious emotional disturbance is cost-effective because it restores productivity, reduces utilization of services, and lessens social dependence and family disruption; and

WHEREAS, the State of Idaho must promote a coordinated service delivery approach by establishment of a comprehensive, community-based system of care emphasizing the natural support that families and peers provide; and

WHEREAS, these persons have a right to individualized services which are acceptable and accountable to them and others in the communities where they choose to live; and

WHEREAS, individuals and families are stigmatized by the myths and fears surrounding severe mental illness and serious emotional disturbance; and

WHEREAS, it is the responsibility of all Idahoans to reduce the stigma and promote the understanding of severe mental illness and serious emotional disturbance; and

WHEREAS, adults with severe mental illness have the right to and responsibility for ongoing participation in determining their destiny at the direct service level and at the policy and planning level; and children and youth with serious emotional disturbance and their fami-

lies have this same right; and

WHEREAS, the service delivery system exists for only one purpose-- to improve the lives of persons suffering from mental illnesses;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me by law do hereby establish the State Planning Council on Mental Health.

The Planning Council's responsibilities will be:

1. To serve as an advocate for adults with a severe mental illness and for seriously emotionally disturbed children and youth;
2. To advise the State Mental Health Authority on issues of concern, policies and programs and provide guidance to the Authority in the development and implementation of the State Mental Health Systems Plan;
3. To monitor and evaluate the allocation and adequacy of mental health services within the State not less than once a year;
4. To ensure individuals with severe mental illness and serious emotional disturbance access to treatment, prevention, and rehabilitation services including those services that go beyond the traditional mental health system;
5. To serve as a vehicle for intra- and inter-agency policy and program development; and
6. To present to the Governor on June 30 of each year a report on the Council's achievements and impact on the quality of life for mental health services consumers and their families.

The Planning Council membership shall be appointed by the Director of the Department of Health and Welfare and composed of not less than fifty percent (50%) non-state employees or providers of mental health services. Membership shall also reflect to the extent possible collective demographic characteristics of Idaho's citizens.

The Planning Council membership shall include representation from the following:

1. Consumers;
2. Families of adult individuals with severe mental illness;
3. Families of children or youth with serious emotional disturbance;
4. Principal state agencies with respect to mental health, education, vocational rehabilitation, criminal justice, Title XIX of the Social Security Act, and other entitlement programs;
5. Public and private entities concerned with the need, planning, operation, funding, and use of mental health services, and related support services; and
6. The Regional Mental Health Advisory Board in each Department of Health and Welfare region.

Planning Council members will serve a term of two (2) years or at the pleasure of the Director, provided, however, that of the members first appointed, one-half the appointments shall be for a term of one (1) year and one-half the appointments for two (2) years. The Director will appoint a chairman and vice-chairman whose terms will be one year. The Council may establish an executive committee and subcommittees at its discretion.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capitol, the fifteenth 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.

BY THE GOVERNOR:

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-07

ESTABLISHMENT OF THE CRIMINAL JUSTICE RECORDS IMPROVEMENT
ADVISORY COUNCIL
REPEALING AND REPLACING EXECUTIVE ORDER NO. 95-12

WHEREAS, automated criminal histories are relied upon at virtually every stage of the criminal justice system and play a vital role in almost every decision in the process; and

WHEREAS, under legislative directive, the use of criminal histories for noncriminal justice purposes -- such as background screening for public and private employment and occupational licensing -- is expanding; and

WHEREAS, national studies have found that the accuracy and completeness of criminal justice records are seriously deficient, thereby compromising the usefulness of these important records; and

WHEREAS, concern about the quality of criminal justice records has led the U.S. Congress and state governments to initiate programs to improve data quality; and

WHEREAS, the Federal Crime Control Act of 1990 requires states to allocate five percent of their total law enforcement assistance formula grant award for the improvement of criminal justice records, and federal guidelines for use of the set-aside grant funds call for the states to establish and interagency advisory council to assist in meeting certain data quality goals; and

WHEREAS, the continued assistance of an advisory council representing the broad spectrum of the criminal justice community is crucial to the success of the Idaho's records improvement project;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me by law, do hereby establish the Criminal Justice Records Improvement Advisory Council and charge it with the responsibility of promoting interagency and intergovernmental cooperation involving efforts to improve the quality of Idaho's criminal justice records.

The Advisory Council shall have the following duties:

1. Assisting the effort to ascertain the reasons for incomplete and inaccurate records;
2. Recommending remedial actions for correcting deficiencies in the accuracy, completeness, and timeliness of criminal justice records;
3. Evaluating the criminal justice records improvement plan prepared for submission to the U.S. Department of Justice;
4. Reviewing the implementation of the criminal justice records improvement plan;
5. Reviewing funding proposals or initiatives to link information systems operated by criminal justice agencies with the state's central repository;
6. Recommending initiatives for achieving the goals of an approved records improvement plan and form meeting the varied needs of the criminal justice community regarding automated criminal histories;
7. Evaluating the adequacy of state laws and other reporting requirements relating to criminal justice records and assisting in the formulation of needed statutory revision.

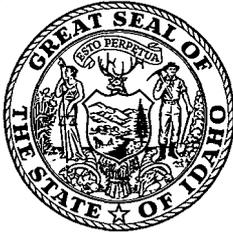
The Advisory Council shall consist of the board created by Idaho Code, Section 19-5203, to manage the Idaho law enforcement teletypewriter system (ILETS). The chairman of the ILETS board shall serve as chairman of the advisory council.

The Advisory Council may appoint ad hoc subcommittees to assist it in developing solutions to problems adversely affecting the quality of criminal history records. The subcommittees may include members representing the Attorney General, Prosecuting Attorneys, Department of Correction, Department of Juvenile Corrections, the courts, and noncriminal justice users.

The Department of Law Enforcement shall have the responsibility of insuring that the criminal justice records improvement project satisfies federal requirements and achieves the goals of the State's records improvement plan. To accomplish this responsibility, the Department of Law Enforcement shall undertake the following duties:

1. Preparing the criminal justice records improvement plan for submission to the U.S. Department of Justice;
2. Administering a criminal justice records improvement project that is based on a federally-approved records improvement plan and funded by five percent of the State's law enforcement assistance formula grant award;
3. Seeking the guidance of the Criminal Justice Records Improvement Advisory Council and supporting it through:
 - a. scheduling the meetings of the council,
 - b. briefing the council on the records improvement project, and
 - c. providing the council with needed administrative and clerical assistance;

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this eleventh day of June 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.

BY THE GOVERNOR:

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-08

DESIGNATING THE IDAHO PUBLIC UTILITIES COMMISSION AS THE STATE AGENCY (CLEARINGHOUSE) TO RECEIVE NOTICES OF ENVIRONMENTAL AND ENERGY MATTERS UNDER THE SURFACE TRANSPORTATION BOARD'S IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969; AND DESIGNATING THE IDAHO PUBLIC UTILITIES COMMISSION AS THE AGENCY TO REPRESENT THE STATE ON MATTERS PERTAINING TO RAILROADS BEFORE THE SURFACE TRANSPORTATION BOARD
REPEALING AND REPLACING EXECUTIVE ORDER NO. 94-01

WHEREAS, the subjects of railroad abandonments, acquisitions, consolidations, and sales are significant to the state of Idaho and particularly its more sparsely populated rural areas; and

WHEREAS, it is the policy of the state of Idaho to promote the development and viability of railroad transportation within the state; and

WHEREAS, the state of Idaho has a significant interest in maintaining and promoting rail access of Idaho communities to vital goods, services, and markets; and

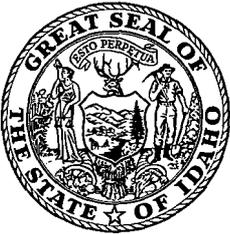
WHEREAS, the Surface Transportation Board (STB), under: (1) the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. section 4332; (2) 49 U.S.C. section 10502; (3) 49 U.S.C. sections 10903-06; and (4) 49 C.F.R. Parts 1105, 1121, 1150, 1152, and 1180, requires railroads operating within the state of Idaho to serve notice of certain required actions upon a designated state agency; and

WHEREAS, Idaho Code section 62-424 vests the Idaho Public Utilities Commission with the authority to make findings and represent the state of Idaho before the STB;

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:

Designate the Idaho Public Utilities Commission to represent the

state on matters pertaining to railroads before the Surface Transportation Board and to receive notices of environmental and energy matters from railroads operating within the state of Idaho, as provided under the applicable federal statutes and regulations. I further direct all state agencies to notify the Public Utilities Commission of information received by them of potential railroad abandonments and to cooperate with the Public Utilities Commission on all matters pertaining to railroads. The Public Utilities Commission is designated as the lead agency for railroad matters and shall approve all state agency submissions to the STB prior to transmittal.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twelfth day of June 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.

BY THE GOVERNOR:

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-09

ALLOTMENT MANAGEMENT PLANS ON PUBLIC LANDS
IDAHO STATE DEPARTMENT OF AGRICULTURE AS LEAD AGENCY

WHEREAS, Section 8 of the Public Rangelands Improvement Act of 1978 (P.L. 95-514; Stat. 1803) provides, for, among other things, careful and considered consultation, cooperation, and coordination between the Forest Service, Bureau of Land Management, federal grazing permittees and lessees, and any state having lands within areas to be included in allotment management plans; and

WHEREAS, the Idaho State Department of Agriculture has signed Memoranda of Understanding (MOUs) with the U.S. Forest Service, the Bureau of Land Management, and the University of Idaho to coordinate and implement the congressional intent of the aforementioned Act;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me, under the Constitution and laws of the State of Idaho, do hereby designate the Idaho State Department of Agriculture to serve as the lead agency to consult, cooperate, and coordinate with the parties involved in matters relating to the development, implementation, and revision of allotment management plans; to provide a process for dispute resolution; and to receive and expend such monies as are available for these purposes. Further, I hereby

direct all state agencies to cooperate fully with and provide assistance to the Idaho State Department of Agriculture in carrying out its responsibilities under this Order.

This Executive Order shall cease to be effective four years after its entry into force. This Executive Order replaces Executive Order No. 92-26 that was issued in 1992.



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 eighteenth day of June 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.

BY THE GOVERNOR:

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-10

CHILD MORTALITY REVIEW COMMITTEE

WHEREAS, the health and safety of Idaho children are of primary importance; and

WHEREAS, the child death rate in Idaho exceeds that of the nation; and

WHEREAS, some child deaths are due to preventable causes; and

WHEREAS, records of children's deaths and circumstances leading to their death are kept by multiple agencies but not coordinated, ongoing effort is being made to evaluate these records; and

WHEREAS, expertise exists within the state to evaluate these records and identify circumstances leading to or contributing to the deaths of children; and

WHEREAS, the identification of risk producing circumstances and recommendations to remediate them may reduce child death rates;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by virtue of the authority vested in me under the Constitution and laws of this state, do hereby establish the Child Mortality Review Committee.

The duties of the Committee shall include reviewing data on selected cases of child death and developing recommendations for systems improvement which lead to reduced mortality.

The members of the Committee shall be appointed by the Director of the Department of Health and Welfare. The terms of appointment, chairmanship, and other operating guidelines shall be established by the Committee in bylaws. Membership shall include:

- a pediatrician,
- an emergency medicine physician,
- a pathologist,
- a coroner,
- a prosecutor,
- a law enforcement representative,
- a Children At Risk Task Force member,
- the state epidemiologist, and
- a representative of the public.

An annual report with the Committee's findings and recommendations shall be presented to the Governor and to the Chairs of the Senate and House Health and Welfare Committees.

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at Boise the Capitol, the sixteenth day of July, in the year of our Lord nineteen hundred ninety-eight, and of the Independence of the United States of America the two hundred twenty-third and of the Statehood of Idaho the one hundred ninth.

BY THE GOVERNOR:

/s/ Philip E. Batt.
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-11

STATE OF IDAHO COMPREHENSIVE POLICY ON THE USE OF AIRCRAFT
BY ALL CIVILIAN STATE AGENCIES
REPLACING 94-06

WHEREAS, it is in the best interests of state employees, the general public, and the efficient operation of state government to be committed to the safe utilization of aircraft; and

WHEREAS, the state of Idaho is committed to ensuring the highest level of safety in the charter and operation of aircraft by state agencies and employees; and

WHEREAS, the state of Idaho is required by Title 21, Idaho Code, actively to promote aviation safety in all aircraft operations; and

WHEREAS, Title 21, Idaho Code requires that all state aviation operations comply with applicable Federal Regulations;

NOW, THEREFORE, I, 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 develop policies for the charter and use of aircraft that

will ensure that there is full compliance with all applicable Federal Aviation Regulations (FAR) pertaining to such operations. Specifically:

- a. All aircraft operations involving the transportation of passengers from point to point, both intrastate and interstate, in any aircraft operated by the State of Idaho shall be according to all applicable rules set forth in Federal Aviation Regulations. State-employed pilots shall meet all training and proficiency requirements, and state-operated aircraft shall be maintained in accordance with the appropriate parts of FAR.
 - b. All aircraft operations involving aerial surveys, game counts, aerial photography, and all other aircraft use not involving aerial transportation of state personnel in point-to-point operations in the furtherance of State of Idaho objectives shall meet all appropriate rules in FAR. Further, all charter operations for such activities shall be conducted either in state aircraft operated by the Idaho Transportation Department Division of Aeronautics or by duly qualified and certified air charter organizations.
 - c. Further, all passenger or freight charter aircraft operations by state agencies will be only by Federal Aviation Administration (FAA) certificated Air Carrier Operators who hold current FAR part 135 or FAR part 121 Air Carrier Operations Certificates and are authorized by appropriate Operations Specifications to perform the operations for which they have been chartered.
2. Each department director or other appointing authority will be responsible for ensuring that his or her agency is complying with the above directives.
 3. The control and operation of state-owned/leased civilian aircraft will be by the Idaho Transportation Department Division of Aeronautics. This organization may be used as a resource for the development of individual agency aviation-use policies.
 4. Each department director or other appointing authority will develop stringent policies governing the operation of aircraft by state employees on official state business. Such policies will include minimum qualifications, minimum experience levels, and minimum certification levels, and shall be limited primarily to point-to-point operations. The carriage of state employee passengers in these circumstances shall be discouraged.
 - a. As a minimum, pilots in operations described in paragraph #4 above will fulfill the following requirements when acting as pilot-in-command of aircraft on official state business when not carrying passengers:
 - 1) Hold at least a current Private Pilot Certificate issued by the FAA with at least a current third-class medical certificate.
 - 2) Have logged at least 150 hours of flying time.
 - 3) Meet all current requirements for type, category,

- and class of aircraft being used.
- b. Pilots carrying state employee passengers will:
- 1) Hold at least a current Private Pilot Certificate issued by the FAA with at least a current third-class medical certificate.
 - 2) Have logged at least 500 hours of flying time.
 - 3) Meet all current requirements for type, category, and class of aircraft being used.
5. State employee personnel possessing current aviator ratings and who have a need to pilot rented or owned aircraft in the fulfillment of their state duties shall first be approved for such duties by their agency and shall also be certified by the Idaho Transportation Department Division of Aeronautics that they meet the certification and experience required by this order. Further, the certification and experience requirements shall be attested to on an annual basis by the Idaho Department of Transportation Division of Aeronautics.
6. Each department director or other appointing authority will ensure that aircraft and pilots involved in paragraph four above will have sufficient insurance to meet state standards. Each aircraft will carry at least \$1,000,000 bodily injury and property damage liability COMBINED SINGLE LIMITS. EXCEPTION--Single-engine, fixed-wing airplanes may be insured for a minimum of \$500,000 COMBINED SINGLE LIMITS with any person sub-limits of no less than \$100,000.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol, the twenty-second day of October in the year of our Lord nineteen hundred ninety-eight and of the Independence of the United States of America the two hundred twenty-third and of the Statehood of Idaho the one hundred ninth.

BY THE GOVERNOR:

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-12

CONTINUATION OF A STATE HOUSING TAX CREDIT AGENCY
REPLACING EXECUTIVE ORDER NO. 94-12

WHEREAS, the United States Congress has enacted and amended the Internal Revenue Code of 1986 (the "Code"); and

WHEREAS, Section 42 of the Code authorizes a Low-Income Housing Credit; and

WHEREAS, Section 42(h) of the Code stipulates that the Housing

Credit is subject to certain restrictions regarding the aggregate credit allowable with respect to projects located in a state; and

WHEREAS, the Idaho Housing and Finance Association was created by the adoption of Title 67, Chapter 62 of the Idaho Code to increase the supply of housing for persons and families of low income and to encourage cooperation and coordination among private enterprise and state and local government to sponsor, build and rehabilitate residential housing for such persons and families; and

WHEREAS, in order to establish and continue an equitable process for the allocation of the allowable Low-Income Housing Credit for the State of Idaho, it is necessary and desirable to issue this Executive Order to provide authorization required under Section 42(h) for a State Housing Credit agency as defined in the Code;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the power vested in me do hereby order as follows:

Section 1: As used in the Executive Order:

- (a) "Annual Report" means the report required from any agency which allocates any housing credit amount to any building for any calendar year, as specified in Section 42(1)(3) of the Code.
- (b) "Code" means the Internal Revenue Code of 1986, as amended, and any related regulations.
- (c) "Executive Director" means the Executive Director of the Idaho Housing and Finance Association or such other official or officials of the Idaho Housing and Finance Association as the Executive Director shall designate to carry out the duties set forth in this Executive Order.
- (d) "Housing Credit Ceiling" means the dollar amount of State Housing Credit Ceiling applicable to any state for any calendar year in an amount based upon the applicable per capita limit and the State's population as determined in accordance with Section 42(h)(3) of the Code.
- (e) "Idaho Housing and Finance Association" or "Association" means the Idaho Housing and Finance Association, an independent public body, corporate and politic, created by the Idaho Legislature under the provisions of Chapter 62, Title 67 of the Idaho Code, as amended.
- (f) "Low-Income Housing Credit" means the federal tax credit authorized under Section 42 of the Code.
- (g) "Qualified Low-Income Housing Project" means any project for residential rental property which meets the requirements of Section 42(g) of the Code; in general Section 42(g) of the Code pertains to the requirement that 20 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income, or that 40 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.
- (h) "State" means the State of Idaho.
- (i) "State Housing Credit Agency" means the agency authorized to carry out the provisions of Section 42(h), Section 42(1) and Section 42(m) of the Code and in particular the Idaho Housing and Finance Association.

(j) "Year" means the period January 1 through December 31, inclusive, for each calendar year beginning January 1, 1998.

Section 2. The Code has created a Low-Income Housing Credit which can be granted by a State Housing Credit Agency for a Qualified Low-Income Housing Project.

The Code has further created a Housing Credit Ceiling which the state may use in any year to assist Qualified Low-Income Housing Projects during the allocation term.

Section 3. The state has delegated certain responsibilities and granted certain powers to the Idaho Housing and Finance Association in order that the supply of housing for persons and families of low income be increased and that coordination and cooperation among private enterprise, state and local government be encouraged to sponsor, build and rehabilitate residential housing for such persons and families.

Section 4. The state requires the development of a Qualified Allocation Plan described in Section 7(a) below for the allocation of the Low-Income Housing Credit in order to ensure fair and equal opportunity by interested parties in gaining an allocation of the Housing Credit Ceiling.

Section 5. The state requires the implementation of said Qualified Allocation Plan in order to ensure the proper use of such credits for Qualified Low-Income Housing Projects.

Section 6. An Annual Report shall be submitted to the Secretary of the Treasury and to the Governor of the State of Idaho with respect to the use of the Low-Income Housing Credit for any year.

Section 7. In consideration of the requirements of the state, the Governor appoints the Idaho Housing and Finance Association to act as the State Housing Credit Agency for the state in the distribution of the Housing Credit Ceiling for any year.

The Idaho Housing and Finance Association is required to:

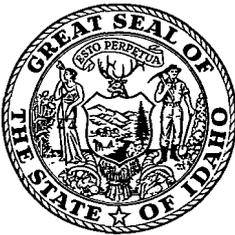
- (a) Establish a Qualified Allocation Plan as defined and provided for in Section 42(m) of the Code for the fair distribution of the Housing Credit Ceiling for the state;
- (b) Distribute the Housing Credit Ceiling for Qualified Low-Income Housing Projects in the manner required under Section 42 of the Code.
- (c) Submit an Annual Report to the Secretary of the Treasury and the Governor of the State of Idaho (at such time and in such manner as the Secretary shall prescribe) specifying:
 - (1) the amount of housing credit allocated to each building for such year,
 - (2) sufficient information to identify each such building and the taxpayer with respect thereto, and
 - (3) such other information as the Code, the Secretary, the Governor or the Legislature of the State of Idaho may require.

Section 8. The state pledges and agrees with the owners of any Qualified Low-Income Housing Project for which an allocation of the Housing Credit Ceiling has been granted under this Executive Order that the state will not retroactively alter the allocation of the Housing Credit Ceiling to such project except as may be required under the terms of the Code.

Section 9. No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt, or liability of the state.

Section 10. The purpose of this Executive Order is to maximize the opportunity for developing low-income housing units through the use of the Low-Income Housing Credit by providing a responsible State Housing Credit Agency within the meaning and requirements of Section 42 of the Code.

Section 11. This Executive Order shall be effective immediately and shall be applied to all allocations made after January 1, 1994, with respect to any Qualified Low-Income Housing Project. This Executive Order shall continue in effect until such time as it may be repealed or superseded by operation of the state or federal law.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capitol, the fourth day of December in the year of our Lord nineteen hundred ninety-eight and of the Independence of the United States of America the two hundred twenty-third and of the Statehood of Idaho the one hundred ninth.

BY THE GOVERNOR:

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-13

DEPARTMENT OF LABOR AS THE LEAD AGENCY FOR THE ADMINISTRATION
OF THE WORKFORCE INVESTMENT ACT OF 1998,
THE JOB TRAINING PARTNERSHIP ACT AS AMENDED,
AND THE WORKER READJUSTMENT AND RETRAINING NOTIFICATION ACT;
REPLACING EXECUTIVE ORDER 92-28

WHEREAS, the Congress of the United States passed the Workforce Investment Act of 1998 for the purpose of establishing a framework for a workforce preparation and employment system designed to meet the needs of the nation's businesses and the needs of job seekers and those who want to further their careers; and

WHEREAS, Title I of the Act, referred to as the Workforce Investment Systems, will replace the Job Training Partnership Act upon its expiration on July 1, 2000; and

WHEREAS, Executive Order No. 92-28 assigned the Department of Labor with the general responsibility for the administration of the Job Training Partnership Act and the Economic Dislocation and Worker Adjustment Assistance Act of 1988, as amended by the Job Training Reform Amendments Act of 1992, and the Worker Adjustment and Retraining Notification Act of 1988; and

WHEREAS these acts charge the Governor with substantial responsi-

bility for implementing their provisions;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state, do hereby order the following:

1. Except for specific responsibilities that have been assigned to other state agencies, the Department of Labor shall continue to have general responsibility for statewide administration of the employment and training system under the Job Training Partnership Act and the Economic Dislocation and Worker Adjustment Assistance Act, as amended by the Job Training Reform Amendments of 1992 and the Worker Adjustment and Retraining Notification Act of 1988 until such time as the Acts expire; and
2. The Department of Labor shall be assigned general responsibility for the statewide implementation and administration of the Workforce Investment System under Title I of the Workforce Investment Act of 1998;
3. The designation of the Department of Labor as the signatory official for all grants and official documents required under Title I of the Act;
4. The Department of Labor shall continue in its role as the lead agency for deploying Rapid Response to dislocations experienced as a result of business closures or substantial layoffs;
5. The designation of the Department of Labor as the agency assigned responsibility for carrying out the responsibilities of the state in identifying and providing a list of eligible providers of training services.

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, the fourth day of December in the year of our Lord nineteen hundred ninety-eight and of the Independence of the United States of America the two hundred twenty-third and of the Statehood of Idaho the one hundred ninth.

BY THE GOVERNOR:

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-14

CONTINUATION OF THE DEPARTMENT OF LABOR AS THE RECIPIENT OF ALL FUNDS UNDER THE WAGNER-PEYSER ACT, AS AMENDED, BY THE WORKFORCE INVESTMENT ACT OF 1998 TO BE ALLOCATED TO IDAHO IN SUPPORT OF THE STATE PLAN, REPEALING AND REPLACING EXECUTIVE ORDER NO. 95-3

WHEREAS, the Workforce Investment Act of 1998, wherein the Wagner-Peyser Act was amended for the purpose of fostering a new partnership between the federal government, the states, and private sector employers and to provide maximum authority and flexibility to the states in responding to the labor market needs of their jurisdictions; and

WHEREAS, Executive Order No. 98-xx assigned to the Department of Labor the general responsibility for administration of the Workforce Investment Act of 1998; and

WHEREAS, that Act charges the Governor with substantial responsibilities for implementing its provisions;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, do hereby order the following:

1. The designation of the Department of Labor as the signatory official for all grants and official documents required under the Wagner-Peyser Act, as amended;
2. The designation of the Department of Labor as the recipient of all funds to be allocated to or negotiated with the Idaho in support of the state plans as required under Sections 7(a), 7(b), and 7(c) of the Act and as may be approved by the USDOL Employment and Training Administration;
3. Designation of the Department of Labor to enter into reimbursable agreements when appropriate for non-Wagner-Peyser authorized activities such as labor certification, migrant housing inspections, national labor market information, Disabled Veterans Outreach, and Local Veterans Employment Representatives.

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, the fourth day of December in the year of our Lord nineteen hundred ninety-eight and of the Independence of the United States of America the two hundred twenty-third and of the Statehood of Idaho the one hundred ninth.

BY THE GOVERNOR:

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-15

DEPARTMENT OF LABOR AS THE LEAD AGENCY FOR THE ADMINISTRATION OF THE
EMPLOYMENT STATISTICS PROVISIONS OF THE WORKFORCE INVESTMENT
ACT OF 1998, THE WAGNER-PEYSER ACT AS AMENDED, AND
REPEALING AND REPLACING EXECUTIVE ORDER 97-09

WHEREAS, the Congress of the United States passed the Workforce Investment Act of 1998, amending section 14 of the Wagner-Peyser Act, for the purpose of establishing the development, maintenance, and continuous improvement of a nationwide employment statistics system.

WHEREAS, Title I, Section 309 of the Act, referred to as the Workforce Investment Systems and amendments to the Wagner-Peyser Act, will take effect July 1, 1999; and

WHEREAS, the act mandates the Governor to designate a single State agency to be responsible for the management of the portions the employment statistics system described in the Act that comprise a statewide employment statistics system, for the State's participation in the development of the annual plan for that system, and to establish a process for the oversight of such system in the state; and

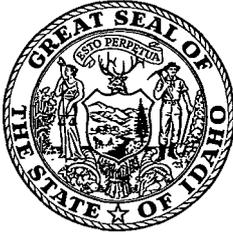
WHEREAS, Executive Order No. 97-09 designated the Idaho Department of Labor as the organizational unit responsible for the oversight and management of Idaho's statewide comprehensive labor market and occupational supply and demand information system and, further, directed the Idaho Department of Labor to rely upon the Idaho State Occupational Information Coordinating Committee for coordinating and disseminating state and local career information, and training and technical assistance to support comprehensive career guidance programs; and

WHEREAS the act charges the Governor with substantial responsibility for implementing its provisions;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state, do hereby order the following:

1. The Idaho Department of Labor shall continue to be the single State agency responsible for the management of the statewide employment statistics system, participation in the plan for a nationwide employment statistics system, and establishment of a process for the oversight of the statewide employment statistics system; and
2. The Idaho Department of Labor shall carry out the duties set forth in Section 309(e)(2) of the act; and
3. The Idaho Department of Labor shall continue to rely upon the Idaho State Occupational Information Coordinating Committee, through the Idaho Career Information System, as a dissemination mechanism for user-friendly occupational, educational and related career information and for training and technical assistance.

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at the Capitol, the fourth day of December in the year of our Lord nineteen hundred ninety-eight and of the Independence of the United States of America the two hundred twenty-third and of the Statehood of Idaho the one hundred ninth.

BY THE GOVERNOR:

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 98-16

DESIGNATION OF THE STATE ENTITY RESPONSIBLE FOR DEVELOPING AND DELIVERING COMPREHENSIVE COMPUTER-BASED CAREER INFORMATION

WHEREAS, Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998, P.L. 105-800 mandates that the Idaho Division of Vocational Education and the Governor of the State of Idaho shall jointly designate an entity in the State to:

1. Provide support for career guidance and academic counseling programs designed to promote improved career and educational decision making by individuals, especially in areas of career information delivery;
2. Make information and planning resources available to students, parents, teachers, and administrators that relates educational preparation to career goals;
3. Provide information to assist students and parents with career exploration, educational opportunities, and educational financing;
4. Improve coordination and communication to ensure nonduplication of efforts and shared information; and
5. Provide a means for customers to provide comments and feedback on products and services to better meet customer requirements; and

WHEREAS, the Idaho State Occupational Information Coordinating Committee has provided oversight and management of the Idaho Career Information System in delivering current and accurate occupational, educational and related career information to the residents of Idaho; and

WHEREAS, career information is critical in helping people make successful career decisions, understand the link between educational preparation and work, explore education and career alternatives, and successfully seek work;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this State of Idaho, do hereby designate the Idaho State Occupational

Information Coordinating Committee consisting of representatives from the Idaho Division of Vocational Education, the Idaho Department of Commerce, Idaho Department of Labor, the Office of the State Board of Education, the Idaho Division of Vocational Rehabilitation, and the Workforce Development Council as the entity responsible for oversight and management of Idaho's comprehensive, computer-based system of career information known as the Idaho Career Information System.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, the Capitol in Boise on this fourth day of December in the year of our Lord nineteen hundred ninety-eight and of the Independence of the United States of America the two hundred twenty-third and of the Statehood of Idaho the one hundred ninth.

BY THE GOVERNOR:

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 99-01

AUTHORIZING THE ESTABLISHMENT OF A 2002 WINTER GAMES
EXECUTIVE COMMITTEE
REPLACING EXECUTIVE ORDER NO. 98-03

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, DIRK KEMPTHORNE, Governor of the State of Idaho, by 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 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 002 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.



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 February in the year of our Lord nineteen hundred ninety-nine 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.

BY THE GOVERNOR:

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 99-02

CONTINUATION OF THE IDAHO LEWIS AND CLARK TRAIL COMMITTEE
REPEALING AND REPLACING EXECUTIVE ORDER NO. 97-05

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, DIRK KEMPTHORNE, 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 1964-1969.

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 the Capitol in Boise on this sixteenth day of February in the year of our Lord nineteen hundred ninety-nine 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.

BY THE GOVERNOR:

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 99-03CONTINUATION OF THE IDAHO LEWIS AND CLARK TRAIL COMMITTEE
REPEALING AND REPLACING EXECUTIVE ORDER NO. 99-02

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, DIRK KEMPTHORNE, 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 1964-1969.

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., 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. 99-02.



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 February in the year of our Lord nineteen hundred ninety-nine and of the Independence of the United States of America the two hundred twenty-third and of the Statehood of Idaho the one hundred ninth.

BY THE GOVERNOR:

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 99-04

AUTHORIZING THE ESTABLISHMENT OF AN IDAHO 2002 COMMITTEE REPEALING AND REPLACING EXECUTIVE ORDER NO. 99-01

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 Idaho 2002 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, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by law, do hereby establish the Idaho 2002 Committee. The Committee shall:

1. Oversee Idaho's implementation of the Idaho 2002 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 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 Idaho 2002 Strategy.
7. Amend, modify or alter Idaho's 2002 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.



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 eleventh day of March in the year of our Lord nineteen hundred ninety-nine and of the Independence of the United States of America the two hundred twenty-third and of the Statehood of Idaho the one hundred ninth.

BY THE GOVERNOR:

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 99-05

CONTINUATION OF THE IDAHO COMMITTEE ON INDIAN EDUCATION REPEALING AND
REPLACING EXECUTIVE ORDER 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, DIRK KEMPTHORNE, 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 Superintendent of Public Instruction.



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 eleventh day of March in the year of our Lord nineteen hundred ninety-nine, and of the Independence of the United States of America the two hundred twenty-third, and of the Statehood of Idaho the one hundred and ninth.

BY THE GOVERNOR:

/s/ Dirk Kempthorne
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

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FIRST REGULAR SESSION - FIFTY-FOURTH LEGISLATURE

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ABBREVIATIONS USED IN THIS INDEX

Approp = Appropriation	Bd = Board
Com = Commission	Comm = Committee
Dept = Department	Dist = District
F&G = Fish and Game	H&W = Health and Welfare
INEEL = Idaho National Engineering & Environmental Laboratory	PUC = Public Utilities Com
MV = Motor Vehicle	
PERSI = Public Employee Retirement System of Idaho	

* = Constitutional amendments approved - Gen. Election, Nov. 3, 1998

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IDAHO SESSION LAWS

IDAHO STATE OFFICIAL DIRECTORY



ELECTED OFFICIALS

CONGRESSIONAL

UNITED STATES SENATORS

Senator Larry E. Craig (R)

Senator Mike Crapo (R)

REPRESENTATIVES IN CONGRESS

Helen Chenoweth (R), First District

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LT. GOVERNOR C. L. "Butch" Otter (R)

SECRETARY OF STATE Pete T. Cenarrusa (R)

STATE CONTROLLER J. D. Williams (D)

STATE TREASURER Ron Crane (R)

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W. Ric Branch (R), Senate 3rd Term
3770 N. Crane Rd., Midvale 83645
Home 355-2426 FAX 355-2426
Cattle Rancher Wife - Cory
CHAIR--Agricultural Affairs
Commerce/Human Resources,
Resources/Environment

Lawrence Denney (R), House Seat A 2nd Term
2227 Denney Rd., Midvale 83645
Home 355-2374 FAX 355-3334
Farmer Wife - Donna
ASSISTANT MAJORITY LEADER
Health/Welfare, Resources/Conservation
State Affairs, Ways/Means

Thomas E. Limbaugh (R), House Seat B . . . 1st Term
P.O. Box 426, Fruitland 83619
Home 452-4847
Farmer Wife - Connie
Appropriations (JFAC)
Health/Welfare

10-CANYON COUNTY

Darrel Deide (R), Senate 2nd Term
603 W. Walnut Dr., Caldwell 83606
Home 459-9716 FAX 459-8101
Retired School Superintendent Wife - LaDonna
Agricultural Affairs, Education
Transportation

Bev Montgomery (R), House Seat A 1st Term
2301 Idaho Ave., Caldwell 83605
Home 459-2449
U of I Extension Education Husband - John
Canyon County
Agricultural Affairs, Education,
Judiciary/Rules/Administration

Dorothy L. Reynolds (R), House Seat B . . . 12th Term
(Served 3 terms, House 1974-80)
1920 Howard Ave., 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 10th Term
6985 Baseline Rd., Melba 83641
Home 495-2226 Wife - Elaine
Grocer/Meat Cutter -- Retired
CHAIR--Finance, CO-CHAIR--JFAC

Robert E. Schaefer (R), House Seat A 8th Term
P.O. Box 55, Nampa 83653
Home/Bus 466-3636 Wife - Betty
Architect
CHAIR--Commerce/Human Resources
Environmental Affairs

W. O. "Bill" Taylor (R), House Seat B 7th 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 8th Term
331 Winther Blvd., Nampa 83651
Home 467-2892 FAX 466-1133
Retired Wife - Lois
CHAIR--Local Government/Taxation
Transportation

Dolores J. Crow (R), House Seat A 9th Term
203 11th Ave. S. Extension, Nampa 83686
Home 467-1302 FAX 467-7387
CHAIR--Revenue/Taxation
Commerce/Human Resources

William W. "Bill" Deal (R), House Seat B . . . 5th Term
917 2nd St. So, P.O. Box B, Nampa 83653
Home 466-3184 FAX 466-2471 Bus 466-2465
Insurance Wife - Joan
VICE CHAIR--State Affairs
Business

LEGISLATORS BY DISTRICT (Continued)

13-ADA COUNTY

Sheila Sorensen (R), Senate 4th Term
 (Served 3 terms, House 1987-92)
 1229 E. Brightwater Ln., Boise 83706
 Home 345-8688 FAX 333-8226 Bus. 344-4900
 Health Care Professional Husband - Dean
 CHAIR--State Affairs
 Judiciary/Rules

Debbie S. Field (R), House Seat A 3rd Term
 3236 Chickory Way, Boise 83706
 Home 336-8365
 Political Consultant Husband - Mike
 VICE CHAIR--Judiciary/Rules/Administration
 State Affairs

Julie Ellsworth (R), House Seat B 2nd Term
 P.O. Box 668, Boise 83701
 Home 336-6747
 Homemaker - 2 Children Husband - Maurice
 VICE-CHAIR--Environmental Affairs
 Judiciary/Rules/Administration, State Affairs

14-ADA COUNTY

Harold R. "Hal" Bunderson (R), Senate . . . 4th Term
 582 River Heights Dr., Meridian 83642
 Home 888-7156 FAX 888-7188
 E-mail: hbunderson@aol.com
 CPA, Auditor - Retired Wife - Mary
 Finance (JFAC), Judiciary/Rules
 Local Government/Taxation

Mike Moyle (R), House Seat A 1st Term
 480 N. Plummer Rd., Star 83669
 Home 286-7842 FAX 286-9540 Bus. 286-7842
 Agribusiness Wife - Sue Ann
 Health/Welfare, Resources/Conservation,
 Revenue/Taxation

Shirley McKague (R), House Seat B 2nd Term
 933 E. Pine, Meridian 83642
 Home 888-2842 Bus 888-3379
 Family Service Station Business Husband - Paul
 Commerce/Human Resources
 State Affairs, Transportation/Defense

15-ADA COUNTY

John C. Andreason (R), Senate 3rd Term
 (Served 2 terms, Senate 1967-1970)
 5120 Mountain View Dr., Boise 83704
 Home 322-8558
 Retired Wife - Darlene
 VICE CHAIR--Education
 Commerce/Human Resources, Resources/Environment

Steve Smylie' (R), House Seat A 1st Term
 2220 N. Coolwater Ave., Boise 83713
 Home 377-5281
 Teacher Wife - Marsha
 Business, State Affairs

Max C. Black (R), House Seat B 4th Term
 3731 Buckingham Dr., Boise 83704
 Home 375-2635 FAX 375-8250 Bus 327-3400
 Insurance Wife - Clydene
 CHAIR--Ways/Means
 Business, Education

16-ADA COUNTY

Cecil D. Ingram (R), Senate 4th Term
 7025 El Caballo Dr., Boise 83704
 Home 375-8876
 Retired, Boise Cascade Corporation Wife - Ann
 Finance (JFAC)
 Judiciary/Rules, Transportation

Margaret Henbest (D), House Seat A 2nd Term
 P.O. Box 3493, Boise 83703
 Home 853-5423 FAX 853-5423 Bus 381-3063
 Pediatric Nurse Practitioner Husband - Michael
 Health/Welfare, State Affairs

Horace B. "Hod" Pomeroy (R), House Seat B . 6th Term
 6822 Kingsdale Dr., Boise 83704
 Home 377-1293 Wife - Margarita
 Business Consultant
 Appropriations (JFAC)
 Transportation/Defense

17-ADA COUNTY

Grant R. Ipsen (R), Senate 4th Term
 1010 Houston Rd., Boise 83706
 Home 342-4470 FAX 342-0261
 CPA--Insurance/Investments Wife - Edna (Eddie)
 CHAIR--Health/Welfare
 Commerce/Human Resources,
 Local Government/Taxation

David Callister (R), House Seat A 2nd Term
 7011 Holiday Dr., Boise 83709
 Home 377-8951
 Businessman Wife - Becky
 Business, Local Government
 State Affairs

Ruby R. Stone (R), House Seat B 8th Term
 6604 Holiday Dr., Boise 83709
 Property Manager - Retired Home 375-7975
 CHAIR--Local Government
 State Affairs

18-ADA COUNTY

James E. Risch (R), Senate 3rd Term
 (Served 7 terms, Senate 1975-88)
 5400 S. Cole Rd., Boise 83709
 Home 362-2626 FAX 345-9982 Bus 345-9974
 Attorney and Rancher Wife - Vicki
 MAJORITY LEADER
 Judiciary/Rules, State Affairs

William T. "Bill" Sali (R), House Seat A 5th 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 5th Term
 11457 Alejandro, Boise 83709
 Home 322-1133 Wife - Geri
 Business Consultant
 CHAIR--Education
 Business

LEGISLATORS BY DISTRICT (Continued)

19-ADA COUNTY

Betsy D. Dunklin (D), Senate 2nd Term
 1519 E. Holly St., Boise 83712-8355
 Home/FAX 336-8201 (call first)
 E-mail: bdunklin@micron.net
 Certified Social Worker Husband - Chip Cole
DEMOCRAT CAUCUS CHAIR
 Education, Judiciary/Rules, State Affairs

David H. Bieter² (D), House Seat A 1st Term
 804 E. State St., Boise 83712
 Home 343-2238 Wife - Julia
 Attorney
 Education, Health/Welfare

Kenneth L. Robison (D), House Seat B 7th Term
 (Served 1 term, Senate 1979-80)
 1119 N. 12th St., Boise 83702
 Journalist Home 345-3440
 Appropriations (JFAC),
 Resources/Conservation

20-ELMORE & OWYHEE COUNTIES

Robbi King (R), Senate 2nd Term
 (Served 2 terms, House 1993-96)
 P.O. Box 28, Glens Ferry 83623
 Home 366-7715
VICE CHAIR--Judiciary/Rules
 Commerce/Human Resources, Health/Welfare

Frances Field (R), House Seat A 8th Term
 HC-85, Box 221, Grand View 83624
 Home 834-2488
 Retired Teacher and School Dist Mgr/Farm Owner
VICE CHAIR--Resources/Conservation
 Agricultural Affairs, Appropriations (JFAC)

Sher Sellman (R), House Seat B 1st Term
 1520 E. 8th N., Mountain Home 83647
 Home 587-5488 FAX 587-8454 Bus. 587-8454
 Financial Advisor/Retired Teacher Husband - John R.
 Education, Judiciary/Rules/Administration
 Local Government

21-BLAINE, CAMAS, ELMORE, GOODING & LINCOLN COUNTIES

W. Clinton Stennett (D), Senate 3rd Term
 (Served 2 terms, House 1990-94)
 P.O. Box 475, Ketchum 83340
 Home 726-8106 FAX 788-4444 Bus. 788-4504
 Businessman/TV Broadcasting Wife - Michelle
DEMOCRAT LEADER
 Agricultural Affairs, Local Government/Taxation
 Resources/Environment

Wendy Jaquet (D), House Seat A 3rd Term
 P.O. Box 783, Ketchum 83340
 Home 726-3100 FAX 726-0674
 E-mail: wjaquet@sunvalley.net
 Husband - Jim
 Tourism Consultant
MINORITY LEADER
 Environmental Affairs, Judiciary/Rules/Administration
 State Affairs, Ways/Means

Tim Ridinger (R), House Seat B 3rd Term
 607 West B, P.O. Box 110, Shoshone 83352
 Home 886-2958 Wife - Penny
 Hay Hauler
 Commerce/Human Resources, Revenue/Taxation
 Transportation/Defense

22-GOODING & TWIN FALLS COUNTIES

John Sandy (R), Senate 3rd Term
 3104 S. 1200 E., Hagerman 83332
 Home 837-6680 FAX 837-6680
 Farmer/Private Businessman Wife - Robin
ASSISTANT MAJORITY LEADER
 Agricultural Affairs, State Affairs, Transportation

Celia R. Gould (R), House Seat A 7th 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 8th Term
 3515 N. 2300 E., Filer 83328
 Home 326-4181 FAX 326-3764 Bus 733-8458
 Farmer Wife - Mary Liz
CHAIR--Agricultural Affairs
 Education, Resources/Conservation

23-TWIN FALLS COUNTY

Laird Noh (R), Senate 10th Term
 3442 Addison Ave. E., Kimberly 83341
 Home 733-3617 Wife - Kathleen
 Sheep Producer
CHAIR--Resources/Environment
 Agricultural Affairs, Education

Leon Smith (R), House Seat A 1st Term
 671 Monte Vista Dr., Twin Falls 83301
 Home 733-0843 Bus 733-6684
 Wife - Janice Mittleider-Smith
 Education, Judiciary/Rules/Administration
 Transportation/Defense

Randy Hansen (R), House Seat B 1st Term
 1888 Candleridge Dr., Twin Falls 83301
 Home 733-7822 FAX 733-3033
 Auto Dealer Wife - Kathy
 Appropriations (JFAC), Health/Welfare
 Judiciary/Rules/Administration

24-JEROME & MINIDOKA COUNTIES

Dean L. Cameron (R), Senate 5th Term
 1101 Ruby Dr., Rupert 83350
 Home 436-5624 FAX 436-3776 Bus 436-3594
 Senate Line 436-4424
 Self-employed Insurance Agent Wife - Linda
VICE CHAIR - Finance (JFAC)
 Resources/Environment

John A. "Bert" Stevenson (R), House Seat A 2nd Term
 1099 N. 400 W., Rupert 83350
 Home 532-4524 FAX 532-4720 Bus 532-4105
 Farmer Wife - Elaine
VICE CHAIR--Agricultural Affairs
 Resources/Conservation, State Affairs

Maxine T. Bell (R), House Seat B 6th 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

LEGISLATORS BY DISTRICT (Continued)

25-CASSIA, MENIDOKA & TWIN FALLS COUNTIES

Denton Darrington (R), Senate 9th 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 5th Term
 1000 S. 1158 E., Albion 83311
 Home 673-6261 Wife - Susan
 Agribusiness
 CHAIR--Transportation/Defense
 Revenue/Taxation

Bruce Newcomb (R), House Seat B 7th Term
 P.O. Box 757, Burley 83318
 Home 678-3758 Wife - Celia Gould
 Farmer/Rancher
 SPEAKER OF THE HOUSE

26-CLARK, CUSTER, JEFFERSON & LEMHI COUNTIES

Don M. Burtenshaw (R), Senate 2nd Term
 1603 N. 1000 E., Terreton 83450-5033
 Home 663-4493 FAX 663-4499 Bus 663-4492
 Farmer/Rancher/Business Wife - Beverly
 VICE CHAIR--Agricultural Affairs
 Education, Resources/Environment

JoAn E. Wood (R), House Seat A 9th 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 ... 4th Term
 143 W. Pleasant, P.O. Box 347, Challis 83226
 Phone 879-2797 FAX 879-4257 Husband - Robert
 Mining/Investments
 Local Government, Resources/Conservation
 Revenue/Taxation

27-FREMONT & MADISON COUNTIES

Robert R. Lee (R), Senate 3rd Term
 1330 Barney Dairy Rd., Rexburg 83440
 Home 356-9506 Wife - Gwen
 Irrigation Engineer
 Commerce/Human Resources
 Finance (JFAC), Resources/Environment

Todd M. Hammond (R), House Seat A 1st Term
 256 W. 3rd S., Rexburg 83440
 Home 359-3191 Bus 356-1437
 E-mail: thammond@srv.net
 College Professor/Attorney Wife - Noelle
 Education, Environmental Affairs
 Judiciary/Rules/Administration

Golden C. Linford (R), House Seat B 8th 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 5th Term
 (Served 3 terms House, 1984-90)
 P.O. Box 367, Ucon 83454
 Home 524-1586 Bus 523-2880
 Agribusiness Wife - Linn
 Finance (JFAC), Local Government/Taxation
 Resources/Environment

Max C. Mortensen (R), House Seat A 4th Term
 120 N. 7th E., St. Anthony 83445
 Home 624-3379 Wife - Bonnie
 Self-employed
 VICE CHAIR--Commerce/Human Resources
 Agricultural Affairs, Education

Cameron Wheeler (R), House Seat B 2nd Term
 P.O. Box 335, Ririe 83443
 Home 538-7355 FAX 538-6018 Bus 538-6018
 Farmer/Real Estate Broker Wife - Beverly
 Environmental Affairs, Resources/Conservation
 State Affairs

29-BONNEVILLE COUNTY

Bart M. Davis (R), Senate 1st Term
 696 S. Bellin Rd., Idaho Falls 83402
 Home 529-4993 FAX 522-1334 Bus 522-8100
 Attorney Wife - Marion
 VICE CHAIR--Commerce/Human Resources
 Education, Judiciary/Rules

Jack T. Barraclough (R), House Seat A 4th Term
 3018 Westmoreland Circle, Idaho Falls 83402
 Home 523-4463
 Consulting Hydrologist Wife - Elaine
 CHAIR--Environmental Affairs
 Resources/Conservation

Reed Hansen (R), House Seat B 7th 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 ... 4th Term
 (Served 2 terms, House 1989-92)
 3725 Brookfield, Idaho Falls 83406
 Home 522-0772 Bus 525-8655
 Public Relations - Broadcasting Wife - Dixie
 VICE CHAIR--State Affairs
 Finance (JFAC), Judiciary/Rules

Lee Gagner (R), House Seat A 2nd Term
 2555 Fieldstream Ln., Idaho Falls 83404
 Home 522-4580 FAX 529-3283 Bus 529-5600
 Multiple Businesses Wife - Linda
 Business, Environmental Affairs
 Revenue/Taxation

Thomas F. Loertscher (R), House Seat B ... 7th Term
 1357 Bone Rd., Iona 83427
 Home 522-3072 FAX 522-1141
 Farmer Wife - Linda
 Health/Welfare, State Affairs

LEGISLATORS BY DISTRICT (Continued)

31-BINGHAM & BUTTE COUNTIES

Jerry T. Twiggs (R), Senate 8th 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 2nd Term
 830 Taber Rd., Blackfoot 83221
 Home 684-4967 Wife - Luann
 Agribusiness
 Agricultural Affairs, Commerce/Human Resources
 Revenue/Taxation

J. Stanley Williams (R), House Seat B 1st Term
 1286 W. 200 S., Pingree 83262
 Home 684-4932 FAX 684-9211
 Farmer/Rancher Wife - Nancy
 Health/Welfare, Resources/Conservation
 State Affairs

32-BANNOCK, BEAR LAKE, CARIBOU FRANKLIN & ONEIDA COUNTIES

Robert L. Geddes (R), Senate 3rd Term
 370 Mt. View Ave., Soda Springs 83276
 Home 547-2423 Bus 547-4300 x234
 Environmental Engineer Wife - Tammy
MAJORITY CAUCUS CHAIR
 Agricultural Affairs, Resources/Environment
 State Affairs

Robert C. Geddes (R), House Seat A 12th Term
 7235 N. 2600 W., Preston 83263
 Home 852-1376 Wife - Carma
 Farmer, Retired
CHAIR--Appropriations, CO-CHAIR--JFAC

John H. Tippets (R), House Seat B 6th Term
 610 Red Canyon Rd., Bennington, 83254
 Home 847-2876 Wife - Nancy
 Industrial Plant Trainer
CHAIR--State Affairs
 Judiciary/Rules/Administration

33-BANNOCK COUNTY

Lin Whitworth (D), Senate 3rd Term
 P.O. Box 183, Inkom 83245
 Home 775-3773
 Farmer/RR Conductor - Retired Wife - Carol
ASSISTANT DEMOCRAT LEADER
 Health/Welfare, State Affairs
 Transportation

Bert C. Marley (D), House Seat A 2nd Term
 8806 S. Old Highway 91, McCammon 83250
 Home 254-3586 FAX 254-3898 Bus 254-3711
 Teacher/Farmer Wife - Michelle
Appropriations (JFAC)
 Commerce/Human Resources

Roger W. Chase (D), House Seat B 2nd 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 4th 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 - Anlyn
CHAIR--Transportation
 Local Government/Taxation, Resources/Environment

Donna H. Boe (D), House Seat A 2nd 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 2nd Term
 128 Fairway Circle, Pocatello 83201
 Home 237-0900 FAX 237-1064
 UPRR Locomotive Engineer Wife - Kitty
 Business, State Affairs
 Transportation/Defense

35-BANNOCK, BINGHAM & POWER COUNTIES

Ralph "Moon" Wheeler (R), Senate 3rd 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--Local Government/Taxation
 Health/Welfare

J. Steven Hadley (R), House Seat A 2nd Term
 4877 Freedom Ave., Chubbuck 83202
 Home 237-9094 Bus 233-5466
 Small Business
 Commerce/Human Resources, Education
 Transportation/Defense

Wayne Kendell (R), House Seat B 2nd Term
 2652 W. 1200 S., Aberdeen 83210
 Home 397-4884 FAX 397-7090 Bus 241-2333
 Farmer/Rancher Wife - Shirley T.
 Agricultural Affairs, Education
 Resources/Conservation

¹ Replaced Representative Paul Kjellander, who was appointed to the Public Utilities Commission.

² Replaced Representative Pat Bieter, who died in an automobile accident January 1999.

